that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H. R. 3826. An act to amend the act of January 16, 1883, an act to regulate and improve the civil service of the United States.

The SPEAKER announced his signature to enrolled bills of the Senate of the following titles:

S. 76. An act to authorize the Secretary of the Interior to convey a certain tract of land in the State of Arizona to Lillian I. Anderson;

S. 489. An act to authorize the refund to the Florida Keys Aqueduct Commission of the sum advanced for certain water facilities, and for other purposes;

S. 1542. An act to authorize the withdrawal of public notices in the Yuma reclamation project, and for other purposes; and

S. 2226. An act relating to the compensation of certain employees of the Panama Canal.

BILLS PRESENTED TO THE PRESIDENT

Mrs. NORTON, from the Committee on House Administration, reported that that committee did on October 14, 1949, present to the President, for his approval, bills of the House of the following titles:

H. R. 86. An act to amend the Civil Service Retirement Act so as to make such act applicable to the officers and employees of the Columbia Institution for the Deaf;

H. R. 160. An act to amend section 801 of the Federal Food, Drug, and Cosmetic Act, as amended;

H. R. 1637. An act for the relief of Mrs. Dora Fruman;

H. R. 1689. An act to increase rates of compensation of the heads and assistant heads of executive departments and independent agencies;

H. R. 4414. An act for the relief of Dora M. Barton;

H. R. 5268. An act to amend certain provisions of the Internal Revenue Code; and

H. R. 5956. An act to provide a method of financing the acquisition and construction by the city of Duluth of certain bridges across the St. Louis River, and for other purposes.

ADJOURNMENT

Mr. McCORMACK. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 4 o'clock and 3 minutes p. m.) the House adjourned until tomorrow, Tuesday, October 18, 1949, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

993. A letter from the Secretary of the Army, transmitting a letter from the Chief of Engineers, United States Army, dated July 13, 1949, submitting a report, together with accompanying papers and illustrations, on a review of reports on, and preliminary examinations and surveys of, the Ouachita River and tributaries, Arkansas and Louisiana, made pursuant to several congressional authorizations listed in the report; to the Committee on Public Works.

994. A communication from the President of the United States, transmitting a proposed provision pertaining to the Housing and Home Finance Agency, Office of the Administrator (pursuant to sec. 3 of Public Law 52, 81st Cong.), Alaska Housing Act (H. Doc. No. 377); to the Committee on Appropriations and ordered to be printed.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. MILES: Committee on Public Lands. H. R. 5936. A bill authorizing an appropriation for the construction, extension, and improvement of a county hospital at Albuquerque, N. Mex., to provide facilities for the treatment of Indians; with an amendment (Rept. No. 1449). Referred to the Committee of the Whole House on the State of the Union.

Mr. COOLEY: Committee of conference. H. R. 2960. A bill to amend the Rural Electrification Act to provide for rural telephones, and for other purposes; without amendment (Rept. No. 1450). Ordered to be printed.

Mr. DURHAM: Committee of conference. S. 1267. An act to promote the national defense by authorizing a unitary plan for construction of transsonic and supersonic windtunnel facilities and the establishment of an Air Engineering Development Center; without amendment (Rept. No. 1451). Ordered to be printed.

Mr. MILLER of California: Committee on Post Office and Civil Service. H. R. 2945. A bill to readjust postal rates; with an amendment (Rept. No. 1452). Referred to the Committee of the Whole House on the State of the Union.

Mr. LESINSKI: Committee of conference. H. R. 5856. A bill to provide for the amendment of the Fair Labor Standards Act of 1938, and for other purposes; with an amendment (Rept. No. 1453). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 3 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. CELLER:

H. R. 6451. A bill to amend section 1 of the Expediting Act of February 11, 1903, as amended; to the Committee on the Judiciary.

By Mr. KLEIN:

H. R. 6452. A bill to regulate the preparation, manufacture, sale, and distribution of kosher products in the District of Columbia; to establish a Board of Kosher Meat and Food Control; and for other purposes; to the Committee on the District of Columbia.

By Mr. PLUMLEY:

H. R. 6453. A bill to equalize taxes; to provide adequate social-security benefits for all American citizens; to solve both the wage problem and the pension problem; to untax private enterprise and thus stimulate efficient production and full employment; to cut the hidden sales taxes out of prices and reduce the high cost of living; to provide incentive pay for Government employees to raise the efficiency and reduce the cost of government; to collect enough revenue to balance the budget, retire the national debt, and in due course revalue the dollar; to make the tax rate automatically adjustable to stabilize our economy on a rising standard of living; and to correct the two basic faults of capitalism, remove the cause of socialization, and achieve honest and general economic freedom; to the Committee on Ways and Means.

By Mr. SABATH:

H. R. 6454. A bill to authorize the appointment of two additional district judges for the northern district of Illinois; to the Committee on the Judiciary.

By Mr. BREHM:

H. R. 6455. A bill to provide for a national cemetery in the State of Ohio; to the Committee on Public Lands.

By Mr. McCARTHY:

H. R. 6456. A bill to amend section 7 of the act of June 25, 1910, with respect to the rate of interest payable on postal-savings deposits; to the Committee on Post Office and Civil Service.

By Mr. DINGELL:

H. J. Res. 381. Joint resolution to clarify the application of the existing excise tax imposed on certain fans under section 3406 (a) (3) of the Internal Revenue Code; to the Committee on Ways and Means.

By Mr. DURHAM:

H. Con. Res. 147. Concurrent resolution authorizing the Joint Committee on Atomic Energy to have printed 50,000 copies of Senate Report No. 1169; to the Committee on House Administration.

By Mr. O'HARA of Minnesota:

H. Res. 400. Resolution authorizing and directing the House Committee on Interstate and Foreign Commerce, or any duly authorized subcommittee thereof, to make a full and complete study and investigation of the production, transportation, refining, and distribution of petroleum products; to the Committee on Rules.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. AUGUST H. ANDRESEN:

H. R. 6457. A bill for the relief of William B. Buol; to the Committee on the Judiciary.

By Mr. DAVIS of Georgia:

H. R. 6458. A bill for the relief of Maj. Roy E. Bevel; to the Committee on the Judiciary.

By Mr. FERNANDEZ:

H. R. 6459. A bill for the relief of Nicolas T. Theodorou; to the Committee on the Judiciary.

By Mr. HERTER:

H. R. 6460. A bill for the relief of the Reverend Dimitri Athanas Hacudi; to the Committee on the Judiciary.

By Mr. MEYER:

H. R. 6461. A bill for the relief of Jirina Zizkovsky; to the Committee on the Judiciary.

By Mr. MILLER of California:

H. R. 6462. A bill for the relief of Sachiko Iwai; to the Committee on the Judiciary.

H. R. 6463. A bill for the relief of Mrs. Shikaju Nakashima; to the Committee on the Judiciary.

PETITIONS, ETC.

Under clause 1 of rule XXII,

1539. Mr. GRAHAM presented a petition of 79 residents of Beaver, Beaver County, Pa., urging the enactment of legislation to prohibit the broadcasting of liquor advertising over radio stations, which was referred to the Committee on Interstate and Foreign Commerce.

SENATE

TUESDAY, OCTOBER 18, 1949

(Legislative day of Monday, October 17, 1949)

The Senate met at 11 o'clock a. m., on the expiration of the recess.

Rev. Harry E. Brooks, pastor, First Methodist Church, Waymart, Pa., offered the following prayer:

Our God and Heavenly Father, who through the ages hast been a rock on which our people have builded their faith

with surety, and hast engendered hope in the hearts of those who have trusted Thy power to redeem, we thank Thee for Thy graciousness to the founding fathers, and we praise Thee for preserving their children in justice and equity through the momentous intervening years. Grant that our faith may be no less than that of our sires. May we be able to say with the Psalmist of old:

"There is no king saved by the multitude of an host: A mighty man is not delivered by much strength."

Our hope is in Thee, Thou God of our salvation. Let Thy blessing rest upon our country in these rapidly changing days. Bless, we pray, the President of the United States, that he may indeed be endowed with extraordinary wisdom. Bless his associates. Bless, we pray Thee, this august body; bless the Vice President, the officers of the Senate, and every Member thereof. Grant, we pray Thee, that through Thy guidance and wisdom the business of this day may be expedited, and may patience and consideration, courage, and fearless decision characterize the accomplishment of this occasion. Impart to us Thy holy peace, through Jesus Christ our Lord. Amen.

THE JOURNAL

On request of Mr. MYERS, and by unanimous consent, the reading of the Journal of the proceedings of Monday, October 17, 1949, was dispensed with.

MESSAGES FROM THE PRESIDENT

Messages in writing from the President of the United States submitting nominations were communicated to the Senate by Mr. Miller, one of his secretaries.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Swanson, one of its reading clerks, announced that the House had passed the following bills of the Senate, each with amendments, in which it requested the concurrence of the Senate:

S. 1232. An act to increase the equipment maintenance allowance payable to rural carriers; and

S. 1825. An act to amend the Postal Pay Act of 1945, approved July 6, 1945, so as to provide promotions for temporary employees of the mail-equipment shops.

The message also announced that the House had passed the following bills, in which it requested the concurrence of the Senate:

H. R. 2386. An act to provide for the establishment and operation of a rare and precious metals experiment station at Reno, Nev.;

H. R. 2736. An act to confer civil and criminal jurisdiction on the State of Wisconsin in certain cases involving Indians;

H. R. 4239. An act to amend section 6 of the Federal Airport Act;

H. R. 4285. An act to amend the act of July 31, 1946, in order retroactively to advance in grade, time in grade, and compensation certain employees in the postal field service who are veterans of World War II; and

H. R. 6301. An act to provide for parity in awards of disability compensation.

LEAVE OF ABSENCE

On request of Mr. CAPEHART, Mrs. SMITH of Maine was excused from attendance on the session of the Senate today.

CALL OF THE ROLL

Mr. MYERS. I suggest the absence of a quorum.

The VICE PRESIDENT. The Secretary will call the roll.

The roll was called, and the following Senators answered to their names:

Baldwin	Graham	O'Conor
Capehart	Ives	Saltonstall
Cain	Jenner	Schoeppel
Donnell	Johnson, Colo.	Thomas, Utah
Douglas	Knowland	Watkins
Downey	Long	Wherry
Dworshak	McKellar	Williams
Ferguson	Martin	
George	Myers	

The VICE PRESIDENT. A quorum is not present. The Secretary will call the names of the absent Senators.

The names of the absent Senators were called, and Mr. AIKEN, Mr. ANDERSON, Mr. CHAPMAN, Mr. ELLENDER, Mr. GURNEY, Mr. LEAHY, Mr. NEELY, Mr. THOMAS of Oklahoma, and Mr. YOUNG answered to their names when called.

The VICE PRESIDENT. A quorum is not present.

Mr. O'CONOR. Mr. President, I move that the Sergeant at Arms be directed to request the attendance of absent Senators.

The motion was agreed to.

The VICE PRESIDENT. The Sergeant at Arms will execute the order of the Senate.

After a little delay, Mr. HAYDEN, Mr. O'MAHONEY, Mr. HOLLAND, Mr. LUCAS, Mr. MALONE, Mr. ECTON, Mr. FULBRIGHT, Mr. GREEN, Mr. CONNALLY, Mr. LODGE, Mr. KEM, Mr. MCMAHON, Mr. PEPPER, Mr. JOHNSON of Texas and Mr. HICKENLOOPER entered the Chamber and answered to their names.

Mr. BRIDGES, Mr. CORDON, Mr. HILL, Mr. JOHNSTON of South Carolina, Mr. KERR, Mr. KILGORE, Mr. LANGER, Mr. MAGNUSON, Mr. MCCARTHY, Mr. MCFARLAND, Mr. MILLIKIN, Mr. MORSE, Mr. RUSSELL, and Mr. THYE also entered the Chamber and answered to their names.

Mr. MYERS. I announce that the Senator from Virginia [Mr. BYRD] is absent on official business.

The Senator from New Mexico [Mr. CHAVEZ], the Senator from Delaware [Mr. FREAR], the Senator from South Carolina [Mr. MAYBANK], the Senator from Nevada [Mr. MCCARRAN], the Senator from Arkansas [Mr. MCCLELLAN], the Senator from Virginia [Mr. ROBERTSON], the Senator from Alabama [Mr. SPARKMAN], the Senator from Mississippi [Mr. STENNIS], and the Senator from Maryland [Mr. TYDINGS] are absent by leave of the Senate on official business.

The Senator from Iowa [Mr. GILLETTE] is absent by leave of the Senate.

The Senator from Mississippi [Mr. EASTLAND], the Senator from North Carolina [Mr. HOEY], the Senator from Minnesota [Mr. HUMPHREY], the Senator from Wyoming [Mr. HUNT], the Senator from Tennessee [Mr. KEFAUVER], the Senator from Montana [Mr. MURRAY], the Senator from Idaho [Mr. TAYLOR], and the Senator from Kentucky [Mr. WITHERS] are absent on public business.

Mr. SALTONSTALL. I announce that the Senator from Ohio [Mr. BRICKER], the Senator from Nebraska [Mr. BUTLER], the Senator from Vermont [Mr. FLANDERS], the Senator from South Dakota [Mr. MUNDT] and the Senator from New Jersey [Mr. SMITH] are absent on official business with leave of the Senate.

The Senator from Maine [Mr. BREWSTER], the Senator from Ohio [Mr. TAFT] and the Senator from New Hampshire [Mr. TOBEY] are necessarily absent.

The Senator from New York [Mr. DULLES], the Senator from New Jersey [Mr. HENDRICKSON], the Senator from Maine [Mrs. SMITH], the Senator from Kansas [Mr. REED] and the Senator from Michigan [Mr. VANDENBERG] are absent by leave of the Senate.

The Senator from Wisconsin [Mr. WILEY] is absent on official business.

The VICE PRESIDENT. A quorum is present.

TRANSACTION OF ROUTINE BUSINESS

The VICE PRESIDENT. Under the agreement entered before the taking of the recess yesterday, the Senator from Illinois [Mr. DOUGLAS] is entitled to the floor.

Mr. MCKELLAR. Mr. President, will the Senator yield to me, without losing the floor?

Mr. DOUGLAS. I yield, if it may be understood that I shall not lose the floor by doing so.

The VICE PRESIDENT. The Chair suggests to the Senator from Illinois that if it is agreeable to the Senate to permit the Senator to yield without losing the floor, perhaps it might be well to have the Senator do so now, so that Senators who wish to make insertions in the RECORD or to present routine matters may be allowed to do so at this time. Otherwise, requests for such purposes no doubt would be made at various times during the day; so perhaps we might as well handle such matters at this time, if that is agreeable.

Mr. DOUGLAS. Certainly.

The VICE PRESIDENT. Without objection, it is so ordered.

AMENDMENT OF DISPLACED PERSONS ACT—PETITION

Mr. BALDWIN. Mr. President, I present for appropriate reference a telegram in the nature of a petition, signed by Dr. C.-E. A. Winslow, retired professor, Yale University, and sundry other officials of religious and fraternal organizations, concerning the displaced-persons bill, and I ask unanimous consent that it be printed in the RECORD, with the signatures.

There being no objection, the telegram was referred to the Committee on the Judiciary, and ordered to be printed in the RECORD, with the signatures attached, as follows:

NEW HAVEN, CONN., *October 15, 1949.*

Hon. RAYMOND BALDWIN,
Senate Office Building,
United States Senate,
Washington, D. C.

We undersigned citizens of New Haven are deeply interested in bringing displaced persons to the United States from Europe and are heartily in favor of the Celler bill now before the Senate. We respectfully re-

quest you to read this telegram into the CONGRESSIONAL RECORD with signatures.

Dr. C.-E. A. Winslow, Retired Professor, Yale, and Public Health State Housing Authority; James Cooper, Attorney; Rev. David N. Beach, Pastor, Center Church; Rev. Robert L. Tucker, Pastor, First Methodist Church, and President, New Haven Council of Churches; Prof. Maurice R. Davie, Professor of Sociology, Yale; Rev. Charles M. Kavanaugh, Pastor, Blessed Sacrament Roman Catholic Church; Elsa Montgomery; Mrs. Charles Howland; William J. Cousins, Attorney; Mrs. William Burns; Rev. Edward Gradeck, Pastor, Lithuanian Roman Catholic Church; Joseph Rourke, Secretary-treasurer, Connecticut State Federation of Labor; Mrs. William P. Ladd; Patricia K. Ritter, Connecticut State Interracial Commission; George J. Ritter, Executive Director, State-County-Municipal Employees, AFL; Rev. C. Lawson Willard, Rector, Trinity Church, Vice Chairman, New Haven Committee on Displaced Persons.

THE CIVIL-RIGHTS PROGRAM—RESOLUTION OF NATIONAL BAPTIST CONVENTION, LOS ANGELES, CALIF.

Mr. DOWNEY. Mr. President, I present for appropriate reference a resolution adopted by the National Baptist Convention, Inc., at its annual session at Los Angeles, Calif., on September 6–11, 1949, and signed by 52 members, of the committee, relating to the civil-rights program, and I ask unanimous consent that it be printed in the RECORD with the signatures.

There being no objection, the resolution was referred to the Committee on the Judiciary, and ordered to be printed in the RECORD, with the signatures attached, as follows:

RESOLUTION OF CIVIL RIGHTS

LOS ANGELES, CALIF., *September 7, 1949.*

Mr. President and members of the National Baptist Convention, Inc., United States of America, we, a group of members numbering 52 submit the following resolution:

"Whereas the President of the United States has repeated, espoused, and championed the causes of the minority groups in a civil-rights program: FEPC, poll taxes, and other denied constitutional guaranties.

"The President just recently declared before the National Democratic Committee that there are two things in his life for which he is more proud than anything else: that he was elected without the industrial East (New York) and the solid South (meaning the solid South opposed his human-rights program).

"Whereas we have observed very closely the office holders in the Senate known as the Dixiecrats, who revolted the President's civil-rights program, and some Republicans of the Senate joined their efforts in defeating every effort to bring before Congress that which would lead to a vote for civil rights.

"It is high time for the leaders of the Negro people, especially the ministers, who are the prophetic voices of God, charged by the Spirit of God, to speak boldly in the defense of justice, and with the responsibility resist all forms of oppression, and to preach universal good will and global brotherhood.

"We want the world to know that we have no sympathy for any movement to overthrow this, our Government of the United States of America by violence. We have not even any foreign interest in any Government outside of the United States of America, or in any other form of government, but we are determined that the democracy of the United States work the same for the Negro in every State of the Union—North, South, East, and West—with full and equal rights to the Negro.

"We agree with Dr. Sandy Ray, chairman of our Social Service Commission of the National Baptist Convention:

" 'If calling for the practical application of the principles of the Constitution of the United States for all citizens, constitutes subversive activity, we are all guilty.

" 'If the claim that all of the benefits and privileges of a democratic society should be extended to all of the members of that society, constitutes subversive activity, then we are all guilty.

" 'If seeking to break down discrimination and segregation in housing, in education, in hotels, restaurants, travel, and employment, health facilities and extend equal opportunities to all citizens, regardless of race, creed, or national origin, is a move to overthrow the Government, we are guilty, and, may we add, doubly guilty.

" 'If our protest against police brutality, search and seizure without warrants and injustice in courts constitute disloyalty, we are guilty.'

"We, therefore, feel that the civil-rights program which has been publicized and awaits an opportunity to be placed before Congress includes all of the above constitutional rights of minority people of the United States.

"We further feel that now they are belated and hindered by filibusters and what-not, and that further delay will hinder the progress of civilization and impose the condemnation of God, therefore it should have the immediate consideration of Congress, regardless of party affiliations.

"We, the National Baptist Convention, Incorporated of the United States, feel that the program of the gospel of the Lord Jesus Christ is the program of God the Father and is none other than the program of civil rights as has been publicized before the Nations and the United States of America.

"We, therefore, commend the President of the United States and all Senators of any party of the Senate and Congress who have sought to present such legislation, and we pray God's blessings upon you that you may continue to carry on until victory has been won.

"We want you to know that the National Baptist Convention represents over 4,000,000 votes that are behind our civil-rights program and we shall use our influence to support for office only those who believe and pledge themselves to stand up for the civil-rights program as has been expressed in these statements, the civil-rights document now in your hand.

"We urge the enactment of the following civil-rights legislation:

"1. Establishment by the Government of an active aggressive campaign to defend and enforce civil rights and liberties: housing, education, enforcement of the abolition of discrimination in all branches of the armed forces.

"2. Establishment of fair employment practices.

"3. Abolition of the poll tax as a requirement for voting.

"4. Enactment of a Federal antilynching law.

"5. Elimination of discrimination within civic and professional groups.

"6. As a Christian group we denounce the activities of the Ku Klux Klan with or without hoods, and call upon our attorney general to prosecute this, and all other lawless groups which intimidate citizens without due process of law.

"The major theme of our Nation is national security. We do not believe that security can be based purely upon economic, military and statesmanship basis. We believe that moral and spiritual values must undergird our national security. It is a moral and spiritual responsibility of a democracy to extend the privileges of that democracy to all of its citizens."

A. Wendell Ross, Chairman, Los Angeles, Calif.; Sandy F. Ray, New York, N. Y.; George H. Crawley, Sr., Baltimore, Md.; John E. Nance, St. Louis, Mo.; W. H. Jeringan, Washington, D. C.; S. D. Ross, Detroit, Mich.; James F. Wertz, Charlotte, N. C.; L. K. Jackson, Gary, Ind.; M. L. Ramsome, Charleston, Va.; E. Huntley, St. Louis, Mo.; Valley V. Stokes, Maryland; Alexander Gregory, West Virginia; Benjamin J. Perkins, Cleveland, Ohio; Simion Williamson, Maryland; Leroy Bowman, Annapolis, Md.; W. L. Clayton, Maryland; G. W. Reed, Kansas City, Mo.; N. W. Whitt, Selma, Ala.; R. C. Campbell, Boonville, Mo.; W. A. Sparks, Kansas City, Mo.; S. Y. Nelson, Texas; E. T. Brown, Tennessee; T. Moore King, Joliet, Ill.; M. K. Curry, Jr., Wichita Falls, Tex.; G. W. Lucas, Toledo, Ohio; Calvin Perkins, Birmingham, Ala.; D. A. Holmes, Kansas City, Mo.; George H. Sims, New York, N. Y.; J. Carl Mitchel, West Virginia; Atty. A. T. Walden, Atlanta, Ga.; J. R. Davis; Marshall A. Talley, Indianapolis, Ind.; J. Franklin Walker, Cincinnati, Ohio; Jonathan L. Caston, Los Angeles, Calif.; W. P. Whitfield, Edwards, Miss.; William H. Ballen, Louisville, Ky.; R. C. Woods, Hot Springs, Ark.; James M. Bracy, St. Louis, Mo.; W. Louis Petty, Chicago, Ill.; J. H. Jackson, Chicago, Ill.; L. A. Pinkston, Atlanta, Ga.; D. J. Benefield, New York, N. Y.; Robert L. Rollins; W. H. Thompson, Baltimore, Md.; Thomas H. Houston, Washington, D. C.; A. J. Payne, Baltimore, Md.; J. B. Reid; William Holmes, Atlanta, Ga.; J. L. Moore, Illinois; E. C. Smith, Washington, D. C.; Roland Smith, Little Rock, Ark.; S. C. Taylor, Pennsylvania.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. DOWNEY, from the Committee on Public Works:

H. R. 6109. A bill granting the consent of Congress to a compact or agreement between the State of Tennessee and the State of Missouri concerning a Tennessee-Missouri Bridge Commission, and for other purposes; without amendment (Rept. No. 1198).

By Mr. CONNALLY, from the Committee on Foreign Relations:

S. J. Res. 133. Joint resolution authorizing the return to Mexico of the flags, standards, colors, and emblems that were captured by the United States in the Mexican War; without amendment (Rept. No. 1199).

By Mr. KILGORE, from the Committee on the Judiciary:

S. 849. A bill for the relief of certain persons who, while serving as members of the Army Nurse Corps, were commissioned as officers in the Army of the United States but were not paid the full amounts of pay and allowances payable to officers of their grade and length of service; with amendments (Rept. No. 1200).

By Mr. McMAHON, from the Joint Committee on Atomic Energy:

S. 2668. A bill to amend the Independent Offices Appropriation Act for the fiscal year 1950; with an amendment (Rept. No. 1201).

AMENDMENT OF CONSTITUTION RELATING TO ELECTION OF PRESIDENT AND VICE PRESIDENT—INDIVIDUAL VIEWS (PT. 2 OF REPT. NO. 602)

Mr. FERGUSON. Mr. President, as a member of the Committee on the Judiciary, I submit individual views on the

joint resolution (S. J. Res. 2) proposing an amendment to the Constitution of the United States providing for the election of President and Vice President, and I ask that they be printed.

The VICE PRESIDENT. The views submitted by the Senator from Michigan will be received and printed.

FAIR EMPLOYMENT PRACTICE COMMISSION—PERMISSION TO FILE INDIVIDUAL VIEWS

Mr. HILL. Mr. President, I ask unanimous consent to file my individual views at a subsequent date on Senate bill 1728, to prohibit discrimination in employment because of race, color, religion, or national origin.

The VICE PRESIDENT. Without objection, it is so ordered.

EXECUTIVE MESSAGES REFERRED

As an executive session,

The VICE PRESIDENT laid before the Senate messages from the President of the United States submitting several nominations, which were referred to the Committee on Interstate and Foreign Commerce.

(For nominations this day received, see the end of Senate proceedings.)

EXECUTIVE REPORTS OF COMMITTEES

As in executive session,

The following favorable reports of nominations were submitted:

By Mr. CONNALLY, from the Committee on Foreign Relations:

Mrs. Eugenie Anderson, of Minnesota, to be Ambassador Extraordinary and Plenipotentiary to Denmark; and

Lewis Clark, of Alabama; John Dewey Hickerson, of Texas; and Edwin A. Plitt, of Maryland, Foreign Service officers for promotion from class 1 to the class of career minister.

By Mr. McMAHON, from the Joint Committee on Atomic Energy:

Robert LeBaron, of the District of Columbia, to be chairman of the Military Liaison Committee to the Atomic Energy Commission.

By Mr. KILGORE, from the Committee on the Judiciary:

Robert L. Russell, of Georgia, to be judge of the United States Court of Appeals for the Fifth Circuit, vice Samuel H. Sibley, retired;

Wayne G. Borah, of Louisiana, to be judge of the United States Court of Appeals for the Fifth Circuit, vice Elmo Pearce Lee, Sr., deceased;

George Earl Hoffman, of Florida, to be United States Attorney for the northern district of Florida; and

Rex Bryan Hawks, of Oklahoma, to be United States marshal for the western district of Oklahoma, vice Dave E. Hilles.

By Mr. JOHNSON of Colorado, from the Committee on Interstate and Foreign Commerce:

James M. Mead, of New York, to be a Federal Trade Commissioner for the term of 7 years from September 26, 1948.

By Mr. JOHNSON of Texas, from the Committee on Interstate and Foreign Commerce:

Mon C. Wallgren, of Washington, to be a member of the Federal Power Commission for the remainder of the term expiring June 22, 1954.

By Mr. RUSSELL, from the Committee on Armed Services:

Harry George Armstrong and sundry other officers for promotion in the United States Air Force;

Franklin L. Bowling and sundry other persons for appointment in the United States Air Force; and

Walter F. Cornnell and sundry other officers of the Marine Corps for permanent appointment to the grade of lieutenant colonel.

BILLS INTRODUCED

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. SCHOEPPEL (for himself and Mr. REED):

S. 2728. A bill to grant permanent residence to Jirina Zizkovsky; to the Committee on the Judiciary.

By Mr. THOMAS of Oklahoma:

S. 2729. A bill for the relief of Leon Gregory Britanisky, his wife and minor children; to the Committee on the Judiciary.

S. 2730. A bill to provide for the designation of the body of water formed by the dam on Polecat Creek near Heyburn, Okla., as Lake Heyburn; to the Committee on Public Works.

By Mr. LANGER:

S. 2731. A bill to create a Government Inter-Agency Recreation Committee from the present Voluntary Committee, to plan, organize, and maintain a recreation program among Federal employees, to establish a Federal Recreation Center in the District of Columbia, and for other purposes; and

S. 2732. A bill for the relief of Helmuth Russow and Volker Harpe; to the Committee on the Judiciary.

By Mr. JOHNSON of Colorado:

S. 2733. A bill for the relief of Hilda Betty Smallwood; to the Committee on the Judiciary.

By Mr. O'MAHONEY (for himself, Mr. HAYDEN, Mr. CHAVEZ, Mr. MCFARLAND, and Mr. ANDERSON):

S. 2734. A bill to promote the rehabilitation of the Navajo and Hopi Tribes of Indians and a better utilization of the resources of the Navajo and Hopi Indian Reservations, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. DOWNEY:

S. 2735. A bill for the relief of Mrs. Vernon B. Rasmussen; and

S. 2736. A bill for the relief of Fred M. Stein (also known as Frederick Meyer Stanislawsky); to the Committee on the Judiciary.

By Mr. RUSSELL (for Mr. TYDINGS):

S. 2737. A bill to amend Public Law 626, Eightieth Congress relating to the Army Institute of Pathology Building; to the Committee on Armed Services.

By Mr. IVES (for Mr. DULLES) (by request):

S. 2738. A bill for the relief of Stanislaw Monseu and Jerzy (George) Pill; to the Committee on the Judiciary.

By Mr. MAGNUSON:

S. 2739. A bill to provide for a national cemetery at Vancouver, Wash.; to the Committee on Interior and Insular Affairs.

By Mr. GRAHAM:

S. 2740. A bill to provide for the consideration upon its merits of the claim of the Dize Awning & Tent Co., of Winston-Salem, N. C., for allowance of the amortization deduction provided for by section 124 of the Internal Revenue Code; to the Committee on the Judiciary.

By Mr. LUCAS:

S. 2741. A bill for the relief of Stephania Ziegler, Anna Hagl, and Theresia Tuppinger; to the Committee on the Judiciary.

By Mr. FERGUSON:

S. 2742. A bill for the relief of Orlando Portale; to the Committee on the Judiciary.

By Mr. THYE:

S. 2743. A bill for the relief of Albino Braiuca; and

S. 2744. A bill for the relief of Anton Ljubicic; to the Committee on the Judiciary.

PRINTING OF MANUSCRIPT ENTITLED "FEDERAL SCHOLARSHIP AND FELLOWSHIP PROGRAMS AND OTHER GOVERNMENT AIDS TO STUDENTS"

Mr. MAGNUSON submitted the following resolution (S. Res. 189), which was referred to the Committee on Rules and Administration:

Resolved, That there be printed as a Senate document the manuscript entitled "Federal Scholarship and Fellowship Programs and Other Government Aids to Students," prepared by the Legislative Reference Service, Library of Congress, October 1949.

NOTICES OF MOTIONS TO SUSPEND THE RULE—AMENDMENTS

Mr. McKELLAR submitted the following notice in writing:

In accordance with rule XL of the Standing Rules of the Senate, I hereby give notice in writing that it is my intention to move to suspend paragraph 4 of rule XVI for the purpose of proposing to the bill (H. R. 6427) making supplemental appropriations for the fiscal year ending June 30, 1950, and for other purposes, the following amendment, namely:

"INCREASED PAY FOR LEGISLATIVE EMPLOYEES

"That (a) each officer or employee in or under the legislative branch of the Government (other than an employee in the office of a Senator) whose rate of compensation is increased by section 5 of the Federal Employees Pay Act of 1946 shall be paid additional compensation at the rate of 5 percent of the aggregate rate of his basic compensation and the rate of the additional compensation received by him under sections 501 and 502 of the Federal Employees Pay Act of 1945, as amended, and section 301 of the Postal Rate Revision and Federal Employees Salary Act of 1948.

"(b) The provisions of section 603 (b) of the Federal Employees Pay Act of 1945, as amended, section 7 (b) of the Federal Employees Pay Act of 1946, as amended, and section 303 (c) of the Postal Rate Revision and Federal Employees Salary Act of 1948 shall not apply to officers and employees subject to the provisions of this section or to employees in the offices of Senators, but (except as provided in subsection (d)) no such officer or employee shall, by reason of any provision of such acts or of this section be paid with respect to any pay period basic compensation, or basic compensation plus additional compensation, at a rate in excess of $10,846 per annum.

"(c) (1) The basic compensation of the administrative assistant to a Senator shall be charged against the aggregate amount authorized to be paid for clerical assistance and messenger service in the office of such Senator.

"(2) The aggregate amount of the basic compensation authorized to be paid for clerical assistance and messenger service in the office of each Senator is hereby increased by $11,520.

"(3) The second proviso in the paragraph relating to the authority of Senators to rearrange the basic salaries of employees in their respective offices, which appears under the heading 'Clerical Assistance to Senators' in the Legislative Branch Appropriation Act, 1947 (60 Stat. 390; U. S. C., title 2, sec. 60f), is amended to read as follows: '*Provided further*, That no salary shall be fixed under this paragraph at a basic rate of more than $5,280 per annum, except that the salary of one employee other than the administrative assistant, in the office of each Senator may be fixed at a basic rate of not more than $6,720 per annum and the Salary of the administrative assistant to each Senator may be fixed at a basic rate of not more than $8,400 per annum.'

"(d) The rates of basic compensation of each of the elected officers of the Senate and the House of Representatives (not including the presiding officers of the two Houses) are hereby increased by 5 percent.

"(e) This section shall take effect on the first day of the first month which begins after the date of its enactment."

Mr. McKELLAR submitted the following notice in writing:

In accordance with rule XL of the Standing Rules of the Senate, I hereby give notice in writing that it is my intention to move to suspend paragraph 4 of rule XVI for the purpose of proposing to the bill (H. R. 6427) making supplemental appropriations for the fiscal year ending June 30, 1950, and for other purposes, the following amendment, namely:

"ASSISTANCE TO THE REPUBLIC OF KOREA

"For expenses necessary to continue assistance to the Republic of Korea during the period October 15, 1949, to February 1, 1950, at the same rate and under the same terms and conditions as in the fiscal year 1949, pending the enactment of legislation outlining the terms and conditions under which further assistance is to be rendered, $30,000,000: *Provided*, That all obligations incurred during the period between October 15, 1949, and the date of enactment of this act in anticipation of such appropriation and authority are hereby ratified and confirmed if in accordance with the terms thereof: *Provided further*, That this appropriation shall be consolidated and merged with the appropriation for economic assistance to the Republic of Korea made by Public Law 343, approved October 10, 1949, and such consolidated appropriation may be used during the period October 15, 1949, to February 1, 1950: *Provided further*, That not to exceed $675,000 of such consolidated appropriation shall be available for administrative expenses during such period."

Mr. McKELLAR also submitted two amendments intended to be proposed by him to House bill 6427, making supplemental appropriations for the fiscal year ending June 30, 1950, and for other purposes, which were ordered to lie on the table and to be printed.

(For text of amendments referred to, see the foregoing notices.)

Mr. McKELLAR subsequently said: Mr. President, a few moments ago I filed notices of motions to be made for a suspension of the rule. I forgot to ask unanimous consent that the rule may be waived so that the amendments that were agreed to yesterday by the committee may be in order.

The VICE PRESIDENT. It is in reference to the 1-day requirement; is it not?

Mr. McKELLAR. I ask a waiver of that.

The VICE PRESIDENT. Is there objection to the request?

Mr. CAPEHART. Mr. President, what is the request?

Mr. McKELLAR. It is a request in connection with two amendments to the appropriation bill. They were unanimously reported, and they are correct.

Mr. CAPEHART. No objection.

The VICE PRESIDENT. Without objection, it is so ordered.

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that on today, October 18, 1949, he presented to the President of the United States the following enrolled bills:

S. 443. An act to authorize the construction and equipment of a radio laboratory building for the National Bureau of Standards, Department of Commerce;

S. 939. An act to remove certain lands from the operation of Public Law 545, Seventy-seventh Congress;

S. 1285. An act providing that excess-land provisions of the Federal reclamation laws shall not apply to certain lands that will receive a supplemental water supply from the San Luis Valley project, Colorado;

S. 1829. An act to authorize the Secretary of the Interior to transfer to the Crow Indian Tribe of Montana the title to certain buffalo;

S. 2316. An act to authorize the construction and equipment of a guided-missile research laboratory building for the National Bureau of Standards, Department of Commerce; and

S. 2360. An act to amend the Federal Airport Act so as to authorize appropriations for projects in the Virgin Islands.

OUTLOOK AND PROBLEMS FACING THE OIL INDUSTRY—ADDRESS BY SENATOR SCHOEPPEL

[Mr. O'CONOR asked and obtained leave to have printed in the RECORD an address regarding the outlook and the problems facing the oil industry, delivered by Senator SCHOEPPEL at the annual dinner of the Oil Industry Information Committee, in Baltimore, Md., which appears in the Appendix.]

INTERPARLIAMENTARY UNION CONFERENCE—REPLY OF SENATOR FERGUSON TO CHARGES MADE BY A COMMUNIST MEMBER OF THE FINNISH DELEGATION

[Mr. FERGUSON asked and obtained leave to have printed in the RECORD the reply made by him to charges made by a Communist member of the Finnish delegation to the Interparliamentary Union Conference at Stockholm, Sweden, which appears in the Appendix.]

ADDRESS BY SENATOR MYERS AT CONVENTION OF THE ATLANTIC DEEPER WATERWAYS ASSOCIATION

[Mr. MYERS asked and obtained leave to have printed in the RECORD an address delivered by him at the Thirty-seventh Annual Convention of the Atlantic Deeper Waterway Association, at the Bellevue-Stratford Hotel, Philadelphia, Pa., October 6, 1949, which appears in the Appendix.]

ADDRESS BY SENATOR MYERS AT THE ROCHESTER, PA., CENTENNIAL

[Mr. MYERS asked and obtained leave to have printed in the RECORD an address delivered by him at the Rochester Centennial, Rochester, Pa., on September 1, 1949, which appears in the Appendix.]

FOREIGN POLICY OF THE UNITED STATES—ADDRESS BY HON. HERBERT H. LEHMAN

[Mr. MYERS asked and obtained leave to have printed in the RECORD a radio address on the subject of foreign policy, delivered by Hon. Herbert H. Lehman in New York City, October 12, 1949, which appears in the Appendix.]

ADDRESS BY PRIME MINISTER PANDIT NEHRU AT A CONVOCATION IN HIS HONOR AT COLUMBIA UNIVERSITY

[Mr. GRAHAM asked and obtained leave to have printed in the RECORD the address delivered by Pandit Jawaharlal Nehru at a convocation in his honor at Columbia University, on October 17, 1949, which appears in the Appendix.]

THE FARM BILL — TELEGRAM FROM DOOLY COUNTY BANKERS AND DOOLY COUNTY FARM BUREAU

[Mr. GEORGE asked and obtained leave to have printed in the RECORD a telegram on the subject of the 90 percent parity for farm prices, from the Dooly County bankers and Dooly County Farm Bureau, Vienna, Ga., which appears in the Appendix.]

DISPLACED-PERSONS LEGISLATION

[Mr. KILGORE asked and obtained leave to have printed in the RECORD a letter from Mrs. Willard Hurst, of Madison, Wis., regarding displaced-persons legislation which appears in the Appendix.]

WHO IS TO BLAME?—EDITORIAL FROM THE INDIANAPOLIS TIMES

[Mr. CAPEHART asked and obtained leave to have printed in the RECORD an editorial entitled "Who Is To Blame?" published in the Indianapolis Times, October 12, 1949, which appears in the Appendix.]

A MIAMIAN IN ISRAEL—ARTICLES BY JUDGE GEORGE E. HOLT

[Mr. PEPPER asked and obtained leave to have printed in the RECORD a series of articles entitled "A Miamian in Israel," written by Judge George E. Holt, and published in the Miami (Fla.) Herald of July 11–17, 1949, which appears in the Appendix.]

THE TOWNSEND PLAN

[Mr. PEPPER asked and obtained leave to have printed in the RECORD an editorial entitled "Maybe Townsend Plan Would Be Better Than the Strikes," written by John W. Love, and published in the Cleveland Press of September 29, 1949, which appears in the Appendix.]

RECORD OF THE LUTZ, FLA., POST OFFICE

[Mr. PEPPER asked and obtained leave to have printed in the RECORD an editorial entitled "Lutz Post Office Has Outstanding Record," published in the Lutz (Fla.) Post of August 12, 1949, which appears in the Appendix.]

THE GENERAL WELFARE — EDITORIAL FROM DAYTONA BEACH (FLA.) NEWS

[Mr. PEPPER asked and obtained leave to have printed in the RECORD an editorial entitled "The General Welfare," published in the Daytona Beach (Fla.) Evening News, which appears in the Appendix.]

MONOPOLIZATION IN THE USED COTTON BALING MARKET—LETTER BY HARRY I. RAND

[Mr. THOMAS of Oklahoma asked and obtained leave to have printed in the RECORD a letter on the subject of the growing trend toward monopolization in the used cotton baling market, written by Mr. Harry I. Rand, dated October 12, 1949, which appears in the Appendix.]

EGG MESS BABY OF AGRICULTURAL DEPARTMENT—ARTICLE BY ROBERT P. VANDERPOEL

[Mr. THOMAS of Oklahoma asked and obtained leave to have printed in the RECORD an article entitled "Egg Mess Baby of Agricultural Department," written by Robert P. Vanderpoel, financial editor, published in a Chicago newspaper, October 14, 1949, which appears in the Appendix.]

PENNSYLVANIA WEEK—NEWSPAPER ARTICLES

[Mr. MARTIN asked and obtained leave to have printed in the RECORD an article entitled "Pennsylvania Week," published in the Philadelphia Inquirer, October 16, and

an article entitled "State Farmers Claim 13 Firsts," published in the Harrisburg News, October 15, which appear in the Appendix.]

TRIBUTE TO SENATOR GRAHAM BY SENATOR DOUGLAS AND THE GASTONIA (N. C.) GAZETTE

[Mr. DOUGLAS asked and obtained leave to have printed in the RECORD an editorial from the Gastonia (N. C.) Gazette for September 23, 1949, and a statement by himself, paying tribute to Senator GRAHAM, which appear in the Appendix.]

CIVILIAN DEFENSE AND THE ATOM—EDITORIAL FROM THE WASHINGTON STAR

[Mr. MCMAHON asked and obtained leave to have printed in the RECORD an editorial entitled "Civilian Defense and the Atom," from the Washington Evening Star of October 17, 1949, which appears in the Appendix.]

CONVICTION OF 11 COMMUNISTS—STATEMENT BY SENATOR CAPEHART

Mr. CAPEHART. Mr. President, I ask unanimous consent to have printed in the body of the RECORD a statement I have prepared on the conviction of 11 Communists, together with their biographies.

The VICE PRESIDENT. Is there objection?

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

Mr. President, the conviction of the 11 Communists in New York Federal court last week should not lull this Nation into a feeling of security against the subversive elements in this country.

On the contrary, the evidence which led to the convictions should serve to alert all Americans to the activities of individuals and groups with designs upon the overthrow of this Government.

Those who participated in the successful prosecution of the 11 Communists are to be commended for the work that was done; the acquisition of necessary evidence; preparation of the evidence, and the presentation of the case to the court.

However, the very trial itself, despite the damning evidence against the 11 men who would overthrow this Government, brought to light the fact that there are citizens in this Nation who would come to the defense of such traitors.

It was to be expected that outright Communists and many fellow travelers would offer their help toward the defense of the 11 Communists on trial, but the organization of the so-called National Nonpartisan Committee to Defend the Rights of the 11 Communist Leaders resulted in membership of people not previously suspected of harboring kind thoughts toward Communists of this stripe.

One of these was a judge in my own State. I am not unmindful of the fact there are Communists in Indiana, just as there are in most other States of the Union, but I must admit surprise at the fact they had support in the person of one charged with administering justice under the laws of a republic.

His name was linked as cochairman of the committee with that of Paul Robeson, recognized as one who hates the very Government he has lived and succeeded under.

Speaking of names, Mr. President, I think it should be of interest to every American to read the biographies of the 11 men convicted in New York.

In those biographies it will be found that all but two used many aliases during their Communist activities. That is a common practice among Communists.

These are the brief biographical sketches of the 11 convicted men as published by the New York Times:

"EUGENE DENNIS

"The general secretary of the Communist Party of the United States, Dennis is 44 years old and lives at 420 West One hundred and nineteenth Street with his wife and two sons.

"He was born in Seattle as Francis Eugene Waldron. According to the Government, he has also been known as Frank Waldron, F. E. W. Dennis, Gene Dennis, Paul Eugene Walsh, and Milton.

"Dennis was sentenced to a year in jail and fined $1,000 last year for contempt of Congress after refusing to testify before the House Committee on Un-American Activities. The sentence has been upheld by the United States Circuit Court, but Dennis has been free on bail pending appeal to the Supreme Court.

"Under the name of Frank Waldron, he was arrested three times in 1930, charged with suspicion of criminal syndicalism, but the complaints were dismissed.

"Dennis attended the University of Washington in 1925–26. An official biography issued by the party is vague about his early party life. It merely says he joined the party in the twenties, organized workers and unemployed in California and went to China in the thirties.

"He visited Moscow in 1930, became Wisconsin secretary of the party in 1935, went to Spain in 1937, was elected to the party's national committee in New York in 1939 and became general secretary in 1946.

"JACK STACHEL

"Stachel, the party's national director of agitation, propaganda, and 'education,' is 49 years old, is married and lives at 203 West Ninety-fourth Street. He has also been known, according to the Government, as Jacob Abraham Stachel, Jankel Stachel, Jacob Zunser, and Moses Brown.

"Stachel was arrested last year in alien deportation proceedings, but has been free on bail pending hearings. He was born in Oberlin, Galicia, then part of the Austro-Hungarian Empire, later part of Polish territory and now part of the Soviet Union. He came to this country in 1911.

"He joined the Communist Party when it was known as the Workers Party and became an organizer for the Young Communist League in 1924. In the 1930's he led big demonstrations of the unemployed as the party's Detroit organizer. He was at one time its general secretary. He was elected to the national board in 1945.

"IRVING POTASH

"Vice president of the International Fur and Leather Workers, CIO, and manager of its Furriers Joint Council, Potash is 47 years old and lives with his wife and daughter at 89 Thayer Street.

"He was born in Kiev, Russia, and came here in 1913. Arrested last year in alien deportation proceedings, he has been free on bail pending hearings.

"Potash served a jail sentence in 1920 after pleading guilty to criminal anarchy on charges of helping to organize the Communist Party and the Communist International. Beginning in 1940 he served 2 years in Lewisburg Penitentiary for conspiracy to influence and intimidate witnesses in a trial in which he had been a defendant. He went to Moscow in 1931 to attend the Lenin school for the training of party leaders.

"JOHN WILLIAMSON

"Williamson, national labor secretary, is 46 years old and lives at 4500 Broadway. He is married and has two sons. According to the Government, he is also known as John Beattie Williamson, John Miller, and Johnny.

"Williamson says he was born in San Francisco, but the Government says he was born in Scotland. He was arrested last year and has been free on bail in alien deportation proceedings.

"In 1919 he took part in the Seattle general strike. He joined the party in 1922 and served as an official of the Young Communist League until 1929. In 1927 he went to Moscow as a delegate to the Young Communist International.

"He has been a member of the party's national committee since 1930. He was Illinois organization secretary from 1930 to 1933 and Ohio organizer from 1933 to 1940. He has held various party posts in New York since 1941.

"GUS HALL

"Hall, Ohio chairman of the party, is 39 years old, and lives in Cleveland with his wife and two children. He was born in Virginia, Minn., as Arvo Mike Halberg. According to the Government, he has also used the names of Arvo Gust Halberg, Arvis Hallberg, Gus Hallberg, Alvo Halberg, Arvo Kustaa Halberg, Arvie Halbert, Gaspar Hall, John Hollberg, and John Howell. His parents, born in Finland, were charter members of the Communist Party in the United States.

"In 1937 Hall was indicted in Warren, Ohio, on the charge of possessing and using explosives in the Little Steel strike. He pleaded not guilty, but later withdrew this plea and pleaded guilty to a lesser charge, malicious destruction of property, and was fined $500 and costs.

"He served a 90-day jail sentence in Youngstown, Ohio, in 1941, for misrepresenting the contents of a nominating petition and for forgery on two counts.

"Hall joined the party in 1927 and in 1931 went to Moscow, where he attended the Lenin Institute and stayed until 1933. After his return from Russia he worked as an organizer in Minnesota and then in Ohio, first for the Young Communist League and later for the party.

"In World War II he served as a machinist's mate in the United States Navy. He was elected to the party's national committee in 1945 and to the national board and as Ohio chairman in 1947.

"ROBERT G. THOMPSON

"Thompson, the party's New York State chairman, is 34 years old and lives at 39–40 Forty-sixth Street, Sunnyside, Queens. He is married and has two children. His wife, Leona, has been educational director and press director of the party in Queens County.

"Thompson testified at the trial that he had also been known as Roberto Tomes, Bob Condon, and Robert Johnson, but could not remember all the other names he had used.

"He was arrested on a charge of vagrancy in Communist Party headquarters at Oakland, Calif., in 1934, in connection with the San Francisco general strike, but was acquitted. He served a 2-month jail sentence in Paris in 1938 for overstaying his visa.

"Thompson was born in Fruitdale, Oreg. He joined the party in 1933. He went to Moscow in 1935 to attend the Young Communist International Congress and stayed in Russia until 1937, when he went to Spain as commander of the Canadian Battalion in the International Brigade.

"Returning to this country in 1938, he became secretary of the Young Communist League for Ohio. In World War II he won the Distinguished Service Cross as a staff sergeant with the Thirty-second (Red Arrow) Division in New Guinea. He became a member of the party's national board in 1945.

"CARL WINTER

"Winter, the party's Michigan chairman, is 43 years old and lives in Detroit. His parents were born in Russia. His wife is the daughter of Alfred Wagenknecht, a charter member of the party in the United States.

"Winter testified at the trial that his right name was Carl Weisberg, but he had also been known as Philip Carl Weisberg. He was born in Pittsburgh and was brought up in Cleveland. He joined the Young Communist

League in 1922 as a charter member and the Communist Party in 1925.

"He came to New York in 1925 and spent 2 years at City College. From 1928 to 1931 he was employed as a draftsman by the New York City board of transportation. In 1931 he became a full-time party functionary and assumed leadership of the Unemployed Councils of Greater New York. He organized and led the eastern column of the 1931 and 1932 hunger marches on Washington.

"Winter went to Europe on party business in 1933 and made eight trips to Russia in the next 2 years. In 1935 he attended the Seventh World Congress of the Communist International in Moscow.

"He returned to this country in 1935 and held various party posts in Cleveland, Los Angeles and elsewhere until he became Michigan chairman in 1945.

"GILBERT GREEN

"Illinois chairman of the party, Green is 43 years old, married, and lives in Chicago. He testified at the trial that his real name was Gilbert Greenberg, that he had also been known as George Gilbert, and that he had used more false names than he could remember.

"Green was born in Chicago. He joined the Young Communist League in 1924, and the party soon afterward. He came to New York in 1929 for the league, which he headed from 1932 to 1939. During that period he made annual trips to Russia. In 1935 he was a delegate to the Comintern's Seventh World Congress in Moscow and became a member of the executive committee of the Comintern and the Young Communist International.

"He became a member of the national committee in New York in 1939 and from 1941 to 1945 he was New York State chairman. He became Illinois chairman in 1945. He was elected to the national board in 1944, dropped in 1945, and reinstated in 1947.

"HARRY WINSTON

"Winston, national organizational secretary, is 35 years old and lives at 1809 Seventh Avenue with his wife and 2-year-old child.

"He was born in Hattiesburg, Miss., and joined the Young Communist League and then the party in 1931. He was a league delegate to the 1932 'hunger march' on Washington. As a Negro, he was then sent to Harlem as a league organizer. He made trips to Moscow in 1933 and 1937.

"Winston served in various league posts in New York and Cleveland until he was inducted into the Army in 1942. After his discharge in 1945 he became a member of the national committee. He was named organizational secretary and member of the national board in 1946.

"BENJAMIN J. DAVIS, JR.

"Davis is chairman of the party's legislative committee. He is 46 years old and lives at 1 West One Hundred Twenty-sixth Street. He was arrested and fined $11 for disorderly conduct in Atlanta, Ga., in 1923. In New York City in 1935 he was arrested on a charge of disorderly conduct and was found not guilty.

"Davis was born in Dawson, Ga., son of a Negro newspaper publisher who was a Republican national committeeman. He was graduated from Amherst College in 1925 and from Harvard Law School in 1928.

"He joined the Communist Party in 1933 while counsel for Angelo Herndon, Negro Communist, who was the party's organizer in Atlanta. He came to New York in 1934 and in 1936 joined the staff of the Daily Worker, party organ. In 1942 he became secretary of the party's Harlem division. He became president in 1946 of the company that publishes the Daily Worker.

"Davis was elected to the New York City Council in 1943, was reelected in 1945, and is now up for reelection again.

"JOHN GATES

"Gates, editor of the Daily Worker, is 36 years old and lives at 4518 Forty-second Street, Long Island City, with his wife, Lillian, who is secretary of the party's State legislative bureau.

"Gates was fined $50 and costs in Warren, Ohio, in 1933 for trying to make a public speech without a permit, and was sentenced to jail for 30 days in New Castle, Pa., in 1934, for passing out 'literature.'

"He testified at the trial that his 'birth certificate' name was Isriel Ragenstrich, but that his real name was Saul Regenstreif. Born in New York City, he was graduated from De Witt Clinton High School in 1930 and attended City College from 1930 to 1932.

"He joined the Young Communist League in 1931 and the party in 1933. After working as a league organizer in Ohio, he went to Spain in 1937 as political commissar in the Abraham Lincoln Brigade. Returning to this country, he became 'educational' director of the league.

"After serving in the United States Army in World War II, he became national director of the party's veterans' committee. In 1947 he was made editor of the Daily Worker."

RECOGNITION OF COMMUNIST REGIME IN CHINA—LETTER BY SENATOR KNOWLAND

Mr. KNOWLAND. Mr. President, I ask unanimous consent to have printed in the body of the RECORD a letter I have addressed to Mr. Henry E. North, president of the San Francisco Chamber of Commerce.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

OCTOBER 13, 1949.

Mr. HENRY E. NORTH,
President, San Francisco Chamber of Commerce,
San Francisco, Calif.

DEAR MR. NORTH: I have your letter of October 7 enclosing a statement of policy from the World Trade Committee of the San Francisco Chamber of Commerce which was approved by your board on directors on October 6, 1949, together with a copy of the news release of October 10, 1949.

It is my belief that the proposal of the San Francisco Chamber of Commerce relating to recognition of the Communist regime in China is not in the best interests of the people of that country, the peace of the world, or our own national security. I have opposed and I shall continue to oppose the recognition of the Communist regime in in China as long as they have not complied with the basic requirements for recognition. De facto power is not alone to be considered.

Woodrow Wilson refused to recognize the revolutionary government of Mexico which took over following the political murder of President Francisco Madero and his Vice President. Secretary of State Stimson refused to recognize the Japanese puppet government established in Manchuria though there is no question that it exercised de facto power in that area.

If and when the great powers of the world recognize the Communist regime it will open up every Chinese Embassy and consulate to additional espionage and fifth column agents. It will give to the Soviet bloc an additional vote on the Security Council at a critical period in the history of the world.

I recognize the fact that there are many business groups, British and American, who believe that you can do business with communism. There were many who felt that you could do business with the warlords of Japan and with Nazi Germany. Some of the scrap iron and oil that went out from Pacific coast ports not only was used to destroy life and property in the country of our historic friend, China, but some of it was used against us to destroy American life and property at Pearl Harbor December 7, 1941, and thereafter. If there was ever a case where commercial transactions were paid in blood money, this was it. While I recognize the fact that your board of directors has already taken action in this matter, I hope that in the major interests of national security in this age of the airplane and the atom, the board will reconsider its decision in a matter which is of vital concern to the future of this country. Communism is fundamentally opposed to private property and will destroy it at the first opportunity. They may temporarily tolerate it until they are in a better position to digest the same.

On numerous occasions businessmen have complained that men in public life compromise principles. The recognition of Communist China at this time, the letting down of our historic friend the non-Communist Government of China will not only, in my judgment, contribute to the collapse of opposition to the Communist dictatorship in that country but will contribute to the overwhelming of southwest Asia and ultimately India. Toward this end the action of the board of directors of the San Francisco Chamber of Commerce will have made a partial contribution.

In case you have not seen it, I am enclosing an article from the New York Times of yesterday (October 12, 1949) relating to the establishment of another Communist satellite nation in eastern Germany. Both in the article and in the accompanying pictures you will see that the Communists in eastern Germany give chief recognition to Joseph Stalin and Mao Tse-Tung.

Also, for the information of you and your board of directors, I am enclosing a release I have received from an official United States Government agency giving the text of a radio broadcast by the Communist news agency of China in which Mao Tse-tung sends greetings to the Communists of America. I hope the entire text will be read at the next meeting of your board.

International communism is global in character. It will do very little good to save 240,000,000 western Europeans from going behind the iron curtain while we are helping to pave the way for 1,000,000,000 people of Asia to be taken into the Soviet orbit. The enclosures in question are a clear indication, I believe, that the Communists throughout the world stand by their friends while at times we appear to be willing to abandon ours.

With best personal regards, I remain,
Sincerely yours,

WILLIAM F. KNOWLAND.

MAO ANSWERS UNITED STATES COMMUNIST LEADERS

PEKING, October 7.—Chairman Mao Tse-tung sent the following telegram yesterday in reply to the message of greetings from William Foster and Eugene Dennis, leaders of the Communist Party of the United States of America:

"Dear Comrade Foster, Comrade Dennis, and all comrades of the national committee of the Communist Party of the United States, thank you very much for your warm greetings on the founding of the People's Republic of China. Please convey my thanks to all members of the Communist Party of the United States and to all people in America who love peace and justice and who harbor good will toward the Chinese people.

"What you said is true. The victory of the Chinese people is a victory over imperialism; first of all, over American imperialism. This victory is part of the outcome of the general struggle waged by the working class and progressive mankind in the world against the world imperialist

camp. American Communists and all sincere democratic elements are fighting shoulder to shoulder with the Chinese people in this struggle.

"American Communists occupy a particularly glorious position in their heroic fight to assist the just cause of the Chinese people and to oppose the reactionary imperialist policy of the United States toward China. Although the American reactionary Government is savagely persecuting the Communist Party of the United States and American progressive forces and is trying 11 leaders of the Communist Party of the United States—Comrade Eugene Dennis, John Williamson, Henry Winston, Jacob A. Stachel, Benjamin Davis, Earl Winter, Robert G. Thompson, John Gates, Charles A. Doyle, Gilbert Green, and Gus Hall—facts have, however, shown that it is the Communist Party of the United States and American progressive forces who are in the right, that it is their Chinese friend who has won victory, and that it is the present imperialist Government of the United States which has violated justice and has met with decisive defeat.

"This fact cannot but encourage all democratic forces in the world which are temporarily in the oppressed position and cannot but educate the peoples throughout the world who are still temporarily under the rule and deception of the reactionaries.

"Long live the friendship between the Chinese and American people.

"MAO TSE-TUNG.

"OCTOBER 6, 1949."

EMERGENCY SCHOOL FACILITIES—STATEMENT OF THOMAS D. BAILEY

Mr. PEPPER. Mr. President, I ask unanimous consent to incorporate in the body of the RECORD, in connection with the bill passed yesterday providing Federal assistance for the provision of emergency school facilities, a statement by the State superintendent of public instruction of Florida, showing the construction school needs of Florida.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATE OF FLORIDA,
DEPARTMENT OF EDUCATION,
Tallahassee, June 3, 1949.

Mr. EDGAR FULLER,
Executive Secretary, National Council of Chief State School Officers,
Washington, D. C.

DEAR MR. FULLER: In reply to your recent letter requesting information concerning serious need for school facilities in one or more Florida school districts, I am glad to send you the information below.

Florida has a county-unit system of school organization; so the information given is for counties rather than for small districts. I have selected two counties which are different in character and each of which is fairly typical of a number of other counties.

Broward County is in the lower east coast, "Gold Coast" section adjoining the Miami area. It is among the wealthier counties of Florida, but is facing very grave school building problems because of rapid growth in school membership in this area in the past few years.

Figures in this office show that average daily attendance in Broward County increased from 6,027 in 1943–44 to 10,226 in the first 2 months of 1948–49. Percentage of increase for each of the last 4 years has been 12.6 percent, 18.4 percent, 11.4 percent, and 7.9 percent, respectively. The last figure represents only the first 2 months of 1948–49 and does not include attendance for any of the peak months of the tourist season when attendance is highest.

An attempt was made to carry a $6,000,000 bond issue in Broward County in recent weeks, which would have helped meet some accumulated building needs; however, the bond issue failed, partly, it is believed, because property in the county is heavily taxed. In spite of its considerable wealth, Broward County faces almost insuperable difficulties in financing urgently needed school buildings.

Broward County is typical of several other counties; for example, our largest and wealthiest county, Dade (Miami), which estimates show will need twenty to twenty-five million dollars worth of new school buildings in the next 10 years to take care of growth alone, without considering accumulated needs estimated at $25,000,000.

Another county which is typical of a considerable number of counties in Florida is Madison, which adjoins the Georgia line. This is a rural county with a static school population. School plant facilities for white children are just fair, and the county could well spend at least $300,000 to provide minimum adequate facilities for white schools which have a membership of about 1,760 this year. However, the critical problem in this case arises from the fact that practically no standard school plant facilities at all exist for the approximately 1,800 Negro pupils. Only 11 standard classrooms for Negroes are in use in the county, and these are in frame buildings. Negro schools are held in churches, lodge halls, and other makeshift buildings. At least $600,000 would be necessary to provide the barest kind of adequate facilities for Negro schools. The economy of the county is almost exclusively agricultural, which means that there is only a limited amount of taxable wealth to provide school facilities. If the county devoted every cent that might be available from both State and local sources for 20 years, it would be impossible to provide urgently needed school facilities for all the children in the county. The county is typical of at least a dozen others.

Florida has recently completed a school building survey program in which school plant facilities in every county in Florida were inspected and evaluated in terms of adequacy for the school program and the number of children to be served. Estimates were made of amounts necessary to provide minimum adequate school facilities for all the children. I am enclosing herewith a sheet which shows the estimates for each county and for the State as a whole. It should be emphasized that most of these estimates are for very low minimum facilities, minimum as to actual space and minimum or medium as to type of construction. In many cases the estimates were cut below what would be reasonably adequate, in order to come within the possibility of financing a building program under the Florida minimum foundation program. You will note that the needs for the State as a whole amount to nearly $140,000,000, which does not take into account growth of school population which is occurring at such a rapid rate in some parts of the State. If growth in population is taken into consideration, estimates of amounts necessary to meet needs in the next 10 years amount to upwards of $200,000,000. People who have considered the matter carefully believe this estimate to be conservative in view of an increase in school population in the last 2 years of 37,000 pupils. Of course, all estimates of cost are subject to downward revision if building costs decline.

I hope that this gives you information that you can use.

Cordially yours,

THOMAS D. BAILEY.

[From Florida School Bulletin for October 1949]

ATTENDANCE

1. Enrollment and attendance in Florida schools continue to increase as the larger classes of children resulting from the high wartime and postwar birth rates enter school and move into the upper grades replacing smaller classes whose members were born during the depression years. The increase now is most marked in the elementary grades but will soon be felt in high school.

2. Reports show that average daily attendance in 1948–49 in Florida schools, grades 1–12 was 389,324, an increase of 20,737 over the average daily attendance of 368,587 reported in 1947–48. This is an increase of 5.6 percent.

3. The evidence is that this increase will continue in the year 1949–50, perhaps at an even higher rate. Reports by superintendents from all but four counties show that at the opening of school this fall enrollment was 7.88 percent higher than at the opening of the 1948–49 school term.

This increase in school enrollment is not uniform throughout the State. Many counties have little increase, while two or three actually show a decline. Other counties have hundreds or thousands more children than they had last year.

The great increase in some counties has created very serious conditions of overcrowding which require the utmost ingenuity on the part of school boards, superintendents, principals, and teachers to provide facilities and services for the children. Double sessions unfortunately have become necessary in some schools owing to lack of classrooms.

Postwar years find the Florida school system facing a very great need for new school buildings and for renovation and alterations of existing school buildings. This results from the large increase in the number of school children and long years of neglect and failure to provide facilities when needed. The school plant survey program carried on from 1947 to 1949 in which school plants in every school system in the State were inspected and evaluated for their adequacy in housing the pupils and providing for the school program showed that $140,000,000 worth of buildings and alterations were needed to house children now in school without providing for the rapid growth in school population. A conservative estimate of the amount needed in the next 10 years to take care of present enrollment and provide for growth is $175,000,000 to $200,000,000.

This expenditure is needed as the result of obsolete and dilapidated buildings which must be replaced, the increased birth rate, the rapid influx of new population into Florida, shifts of population within the State, the changes in the school program, new services to be performed and new groups to be served by the school program, and modernization requirements for heating, lighting, and sanitation.

Estimate of school building needs in Florida based on school surveys made under supervision of the State department of education from 1947 to 1949, April 1949

	White	Negro	Total
Alachua	$1,420,600	$1,547,900	$2,968,500
Baker	230,800	106,300	337,100
Bay	2,020,000	370,000	2,390,000
Bradford	285,600	393,600	679,200
Brevard	469,840	395,280	865,120
Broward	1,440,000	4,009,000	5,449,000
Calhoun	482,048	175,680	657,728
Charlotte	66,500	20,500	87,000
Citrus	167,760	179,424	347,184
Clay	520,700	81,600	602,300
Collier	295,520	94,300	389,820
Columbia	875,000	282,500	1,157,500
Dade	[1] 15,000,000	[1] 10,000,000	[1] 25,000,000
De Soto	329,760	180,040	509,800
Dixie	251,750	2,500	254,250
Duval	[2] 10,186,950	[2] 8,952,300	[2] 19,139,250
Escambia	2,903,480	1,255,550	4,159,030
Flagler	172,896	128,640	301,536
Franklin	67,360	25,675	93,035

[1] Estimate based on figure supplied by county superintendent's office. Does not include estimate of $20,000,000 to $30,000,000 for prospective growth in school membership in next 10 years.

[2] Estimate based on figure supplied by county superintendent's office, and on 1945 survey by Reynolds, Smith & Hills, engineers and architects.

Estimate of school building needs in Florida based on school surveys made under supervision of the State department of education from 1947 to 1949, April 1949—Con.

	White	Negro	Total
Gadsden	$481,790	$1,386,596	$1,868,386
Gilchrist	133,000	48,400	181,400
Glades	231,360	53,760	285,120
Gulf	269,000	148,600	417,600
Hamilton	176,800	434,400	611,200
Hardee	841,860	67,500	909,360
Hendry	430,960	87,840	518,800
Hernando	139,600	93,960	233,560
Highlands	479,100	397,200	876,300
Hillsborough	2,372,200	10,420,300	12,792,500
Holmes	588,200	55,800	644,000
Indian River	295,800	165,200	461,000
Jackson	1,318,400	1,499,090	2,817,490
Jefferson	204,000	937,600	1,141,600
Lafayette	177,780	37,440	215,220
Lake	650,700	576,040	1,226,740
Lee	1,329,500	333,600	1,663,100
Leon	715,600	1,449,550	2,165,150
Levy	376,472	431,000	807,472
Liberty	192,540	14,400	206,940
Madison	320,200	616,160	936,360
Manatee	1,343,800	677,500	2,021,300
Marion	869,400	1,322,000	2,191,400
Martin	264,600	159,410	424,010
Monroe	379,400	87,900	467,300
Nassau	549,800	343,160	892,960
Okaloosa	815,000	107,000	922,000
Okeechobee	40,500	49,540	90,040
Orange	4,335,060	2,228,800	6,563,860
Osceola	383,200	204,300	587,500
Palm Beach	2,033,460	1,831,600	3,865,060
Pasco	973,000	166,640	1,139,640
Pinellas	3,961,000	1,449,000	5,410,000
Polk	3,966,720	1,344,966	5,311,686
Putnam	584,860	616,800	1,201,660
St. Johns	363,600	543,500	907,100
St. Lucie	855,640	560,000	1,415,640
Santa Rosa	634,356	198,720	833,076
Sarasota	520,500	220,200	740,700
Seminole	406,960	855,396	1,262,356
Sumter	128,000	397,100	525,100
Suwannee	730,600	705,150	1,435,750
Taylor	213,800	480,000	693,800
Union	262,656	108,480	371,136
Volusia	892,520	972,030	1,864,550
Wakulla	98,400	79,900	178,000
Walton	645,916	62,560	908,476
Washington	581,966	321,760	903,726
Total	75,746,140	63,748,337	139,494,477

THIRTIETH ANNIVERSARY OF THE INTERNATIONAL LABOR ORGANIZATION

Mr. THOMAS of Utah. Mr. President, since the month of October marks the thirtieth anniversary of the International Labor Organization, I ask unanimous consent to have inserted in the RECORD a statement which I have prepared in commemoration of this event.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

This month marks the thirtieth anniversary of the International Labor Organization. The first International Labor Conference, which convened 30 years ago in Washington, created a sound institution which has continued to grow during the turbulent three decades which followed. While other major international agencies passed from the scene, it survived the chaos of World War II. Because of its realistic approach and its strong organization, it has become increasingly active and effective. Today, as a specialized agency of the United Nations, the ILO is as youthful and as stirring with hopes as when it started.

The ILO has kept abreast of the times. It has adjusted its programs to meet the realities of changing world situations and needs. From its deliberations there has grown a monumental code of international labor standards. With changing economic and social conditions throughout the world, the ILO has recently placed increasing emphasis on rendering technical assistance to its member governments. It is now engaged, for example, in practical programs designed to relieve the serious manpower problems which so directly affect world economic development and progress. Needless to say, the United States, which has embarked upon far-reaching programs leading toward these objectives, has a vital interest in the success of these ILO programs which complement our own direct efforts.

The vitality and realistic approach of the ILO can be accounted for, in large part, by its composition. It is unique among major international organizations in that management and labor, as well as the governments, are directly and independently represented in the ILO. They guide its programs with a high degree of realism. Their cooperation on problems of common interest has helped to open up new channels for international understanding.

Fifteen years ago, the Congress of the United States examined the principles and achievements of the ILO and, by unanimous vote, approved our membership. This decision has been fully vindicated by all the events which followed. Today we see more clearly than ever before that—to quote from the ILO Constitution—

"Lasting peace can be established only if it is based on social justice,"

and that, as stated in their Philadelphia Declaration of 1944—

"Poverty anywhere constitutes a danger to prosperity everywhere."

The ILO is coming to grips with important problems that affect us all. The degree to which it is effective in the solution of economic and social problems which might otherwise lead to international conflict, and the degree to which it is effective in raising working and living standards throughout the world, is of real and immediate concern to us. Its activities contribute to increased world-wide prosperity and benefit countries with higher standards by raising the standards of other countries competing with them in world markets.

In view of the achievements of the ILO during the past 30 years, and as a matter of enlightened self-interest, the United States should now, more than ever before, take advantage of the opportunity presented through the ILO to participate effectively in the attainment of its objectives—world peace based on social justice.

PRICING PRACTICES—CONFERENCE REPORT

The Senate resumed the consideration of the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1008) to define the application of the Federal Trade Commission Act and the Clayton Act to certain pricing practices, and for other purposes.

The VICE PRESIDENT. If there be no further routine matters, the Chair recognizes the Senator from Illinois.

Mr. DOUGLAS. I ask unanimous consent that my assistant, Mr. Wallace, may be permitted to sit beside me during the course of my remarks.

The VICE PRESIDENT. Without objection, it is so ordered.

The question is on agreeing to the conference report on Senate bill 1008, the so-called basing-point bill.

Mr. DOUGLAS. Mr. President, before I begin the formal discussion of this subject, I should like to read certain telegrams which I have just received from various business and other organizations throughout the country, protesting against the conference report, and opposing the bill, S. 1008, which is now before us. First let me read a telegram from Mr. Harold O. Smith, Jr., executive vice president of the United States Wholesale Grocers Association, Inc., from Washington, D. C., addressed to me, reading as follows:

We earnestly urge you to reject conference report on S. 1008 because it nullifies the bills passed by the Senate and House, saps the effectiveness of the Robinson-Patman Act, places an insuperable burden of proof on the Federal Trade Commission in price discrimination cases, sacrifices small businesses, and plays into the hands of big monopolistic organizations.

I now desire to read another telegram from Mr. Victor Postillion, president of the Gasoline Retailers' Association of Metropolitan Chicago, room 311, 8 North Ogden Avenue, Chicago, Ill., addressed to me:

DEAR SENATOR: Senate bill 1008 in its present form repeals the Robinson-Patman Act and nullifies the Clayton Act. In the interest of all small-business men please defeat this bill. It is vicious to the interest of the small retailer.

I should also like to read another telegram from the National Congress of Petroleum Retailers, Rankin Peck, president, 205 East Adams Avenue, Detroit, Mich., addressed to me:

DEAR SENATOR: We urge you to vote against bill S. 1008, which would repeal Robinson-Patman Act. Without a law against price discrimination the independent gasoline dealer will quickly become a thing of the past. S. 1008 would legalize any and all price discrimination whenever two or more suppliers met the discriminatory price. Big buyers can always get two suppliers to give them special prices which can be used to bankrupt their small competitors. S. 1008 is a bill to turn all the business of the country over to the monopolies. This bill, S. 1008, will also reverse the decision of a *Standard Oil Company* v. *Federal Trade Commission* now on appeal to Supreme Court from unanimous decision of the United States Seventh Circuit Court of Appeals.

Now, may I read still another telegram from A. J. Hayes, president of the International Association of Machinists, an organization which I believe has about 500,000 members, addressed to me:

S. 1008 would repeal Robinson-Patman Act, destroy effectiveness of Federal Trade Commission, and nullify Clayton Act. I respectfully urge that you speak and vote against S. 1008.

I have an earlier telegram from a large business firm in my city, the Hoover Food Products Corp., 1043 West Randolph Street, Chicago, addressed to me, which reads as follows:

We urge you reject subcommittee version of new form of delivered pricing bill, S. 1008, and insist that the Judiciary Committee give further thoroughgoing study to the bill, including public hearing. Bill in present form would kill Robinson-Patman Act and injure all independent merchants.

Mr. President, I think that during the course of the day a great many more telegrams will be received by the Senator from Louisiana [Mr. LONG] and myself, and at an appropriate period we shall see that the attention of the Senate is invited to these telegrams. It is very refreshing that the businessmen and the labor groups of the country are waking up to precisely what is contained in this conference report. I hope very much that in the course of the debate we may make clear to the Senate and to the country how completely this bill, as now

proposed, would violate the American tradition and principle of free competition.

CONFERENCE REPORT ON S. 1008 DEFECTIVE IN EVERY FEATURE

Mr. President, in the few minutes in which I had the floor near the conclusion of yesterday's session I tried to lay out the groundwork of the argument which the junior Senator from Louisiana and I hope to develop. I pointed out that the conference report is defective in virtually every feature. I pointed out that section 1, taken in conjunction with sections 2 and 3, legalizes the basing-point system. I should like to show that this bill, by permitting delivered prices, permitting the absorption of freight, and permitting one competitor to charge the same price which other alleged competitors are charging, legalizes three essential features of the basing-point system.

S. 1008 WOULD LEGALIZE THE BASING-POINT SYSTEM

What is the basing-point system? It is a system in which a price leader charges a price at a given city which it chooses as its base point, and then at other cities charges a price equal to the price at the base point plus the freight. The price leader does not permit the buyer to buy the goods at the factory gate of the producer. It does not permit the buyer to buy f. o. b. It insists that the buyer must take the goods as delivered, and it charges a set freight rate even though the goods may move by water or by truck. The delivered price, therefore, is an essential feature of the basing-point system.

Then, after the price leader has established this set of country-wide prices based upon a given city, with freight rates added, the other firms follow suit and charge, in given localities, prices identical to those charged by the price leader. This will bring differing prices between localities—I emphasize that—but identical prices within a given locality. This is made entirely legal by S. 1008, because it would be thoroughly legal to absorb freight to meet an equally low price of a competitor in good faith. That is contained in the first clause of section 2 (b). It, therefore, becomes legal for the price leader to establish its price over the country, and it becomes legal for every other firm to charge identically the same price and to match the prices of the price leader in each and every locality throughout the country. The result is uniformity of prices and the abolition of competition.

In the next place, it is definitely stated in the bill that the freight may be absorbed. I emphasize that fact. Under the delivered-price system, or the basing-point system, as I have said before, the buyer is not permitted to purchase goods at the factory gate of the producer. The seller insists that he must take the goods delivered at the point where the buyer is located, and the seller absorbs the freight. That is the third ingredient in the basing-point system.

Therefore, this bill legalizes each of the essential features of the basing-point system. It legalizes delivered prices; it legalizes the meeting by other firms of the price of the leader, and, therefore, it legalizes a uniform network of country-wide prices, and it legalizes the absorption of freight. The basing-point system is, in its essence, a delivered-price system, with all the other firms in the industry meeting the prices of the price leader. That is all the basing-point system is. This bill, by legalizing each and every feature of the basing-point system, legalizes the basing-point system itself.

S. 1008 LEGALIZES OTHER WEAPONS OF MONOPOLIES

Mr. President, this bill goes even further. It legalizes, in section 2 (a) two additional pricing systems which monopolies can use, because section 2 (a) provides:

> To quote or sell at delivered prices if such prices are identical at different delivery points or if differences between such prices are not such that their effect upon competion may be that prohibited by this section.

What does that mean? It means that the so-called postage-stamp system of pricing, or the zoning system of pricing, is also legalized in section 2 (a) so that a company can charge the same price all over the country, no matter where it is manufacturing its products. It may also charge the same price within one zone, but may charge differing prices in another zone.

In section 2 (b) it is legal for other firms to charge identical prices, provided they do it "in good faith."

In other words, Mr. President, a network is now laid by this bill, in a measure, by which the big firms of the country can lay down the prices for the country as a whole, and the smaller firms, afraid of price reprisals on the part of bigger firms, will be forced into line, and the Federal Government will be powerless to step in and try to protect competition. The means are furnished whereby the big industries of the country can strangle competition, and the Federal Government will have its hands shackled and tied and will be prohibited from stepping in to protect the channels of competition.

S. 1008 WOULD REVERSE OUR PRESENT ANTI-TRUST POLICIES

Mr. President, this is a reversal of the entire policy of this Government which began, in 1890, with the passage of the Sherman Act, which continued in 1913 with the passage of the Federal Trade Commission Act and the Clayton Act, which was continued still further, in 1936, by the passage of the Robinson-Patman Act. I beg Senators to consider carefully the steps which we have taken, because—and I do not exaggerate—the whole industrial future of the Nation is at stake. We may today take steps which will reverse the whole policy of this country. I urge, in all seriousness, that the solemnity of this occasion should be fully appreciated.

Mr. LONG. Mr. President, will the Senator yield for a question?

Mr. DOUGLAS. I shall be very glad to yield to the Senator from Louisiana for a question only.

Mr. LONG. Is it not true that in many major industries only a few major corporations control all production, and it is possible to form a conspiracy under the basing-point system which it is almost impossible to prove? Is it not true that in the case of copper about three companies produce 99 percent of all copper, and in steel eight large companies produce 90 percent of the steel?

Mr. DOUGLAS. The Senator from Louisiana is completely correct on that point. When the Temporary National Economic Committee some 10 years ago made their report, under the chairmanship of our distinguished colleague, the Senator from Wyoming [Mr. O'MAHONEY], they showed that in a very great number of industries three or four firms would control 65 percent of the output. Instead of production being diffused evenly among a large number of small firms, there would be three or four big firms which would produce 65, 75, or 80 percent of the production, and the remaining firms would take the fringe of one-third, one-fourth, or one-fifth. Three or four firms dominate most of the mass production industries, and the others are afraid of them. They are afraid generally to compete lest the big firms start local price cutting.

I hope that the Senator from Louisiana can perhaps read into the RECORD at a convenient time what some of these industries are. As I remember them, they are, roughly, steel, copper—and of course aluminum was a perfect monopoly with one concern at one time, now there are only three firms in the industry; tin, electrical machinery, telephone equipment, and glass.

Mr. LONG. Mr. President——

The PRESIDING OFFICER (Mr. GEORGE in the chair). Does the Senator from Illinois yield to the Senator from Louisiana?

Mr. DOUGLAS. I yield for a question.

Mr. LONG. I ask the Senator if the study of the Concentration of Production Facilities of 1947, made by the Federal Trade Commission, did not show that in the matter of tin cans and other tinware, just two companies, the American Can Co. and the Continental Can Co., manufactured 92.1 percent of all production.

Mr. DOUGLAS. That, of course, is absolutely correct. There are many other industries in which substantially similar results could be shown, the glass industry, for instance.

Mr. LONG. Is it not true also that the same report showed that in the case of copper smelting and refining, eight companies had 100 percent of the business?

Mr. DOUGLAS. There were only eight companies, and the three big companies, I am told, have about 65 percent or 70 percent of the business.

Mr. LONG. Did not the same study show that in the case of primary steel, eight large corporations controlled 69.3 percent of all production?

Mr. DOUGLAS. That is correct. There were United States Steel, Jones & Laughlin, Bethlehem, Republic, Youngstown, Inland, and others.

Mr. LONG. Is it not true that if the pending bill were passed legalizing freight absorption and the other incidental things which are legalized in the bill, these large corporations could go back to their old practice of arriving at identical prices, possibly without con-

spiracy, but even if their action was the result of a conspiracy, it would be almost impossible to prove, and regardless of whether they were in conspiracy or not, the effect on the American public would be the same, would it not?

Mr. DOUGLAS. I am glad the Senator from Louisiana has made the point that the concentration in most of the major industries is in such a small number of hands that they can reach an identity of prices without formal conspiracy.

On this point, if the Senator from Maryland will permit me, I should like to say that his statement of yesterday, which appeared on page 14777 of the RECORD, does not quite cover the point, when he said:

> We proceed on the theory that a charge of conspiracy or collusive agreement in violation of the antitrust laws should, in order to be established, be founded upon specific proof of the actual existence of a conspiracy or a collusive agreement among those charged therewith.

The Senator from Louisiana is completely correct. These firms are now so few in number that they can reach substantial identity of action without having prior conspiracy. As I have said over and over again, they have rate books and freight books. Let the price leader establish a base price at a given city, then all the other firms have to do is to look up their freight books and see what the freight rates are from a particular city used as the basing point to any other city in the country. They set the same delivered prices, and they can do this, as I have said, without signing a formal compact, without meeting in a room, nor do they even have to talk on the golf course. So that this alleged safeguard, that the proposed law "shall not make lawful any combination, conspiracy, or collusive agreement; or any monopolistic, oppressive, deceptive, or fraudulent practice" is totally insufficient. Identical prices can be arrived at in the absence of conspiracy.

ENFORCEMENT OF LAWS SHOULD BE BASED ON PREVENTION OF BAD EFFECTS

Mr. President, I am not a lawyer, but some years ago I read Oliver Wendell Holmes' book The Common Law, and in that book Holmes pointed out that more and more the law tended to ask people to know the effects of their actions, and it is the effect of acts toward which we should move. We should give to the law the power to restrain acts where the effect of such acts is likely to restrain competition.

Here on the floor of the Senate we assume, and I think rightly so, that we are all men of good will, and that none of us has any evil designs on another, and when we differ, it is not from a difference in motives. I am never one who believes we should try to find bad motives on the part of one who differs with us, but that rather we should judge things by the effect of the measures proposed. Similarly, in the case of these combinations, we should judge the effects of the delivered price system, of freight absorption, and of charging identical prices. The effects of all those things are the removal and the disappearance of competition. When competition is destroyed and private monopoly takes its place, there ensue dire consequences which will hurt the country.

Mr. FULBRIGHT. Mr. President, will the Senator yield?

Mr. DOUGLAS. I yield for a question only.

Mr. FULBRIGHT. If the conference report shall be rejected, is it the Senator's opinion that this whole matter would go over to January to be further considered? Would that be the effect?

Mr. DOUGLAS. I am a very frank man, at least I hope I am.

Mr. FULBRIGHT. I am sure the Senator is.

Mr. DOUGLAS. I will therefore say to the Senator from Arkansas that it is my intention to move, at the conclusion of my speech, that we postpone consideration of this conference report until January 20 of next year.

THE BILL REALLY REPEALS THE ROBINSON-PATMAN ACT

Mr. President, this bill not only legalizes the basing point system, the postage stamp system of pricing, the zone system of pricing, and therefore gives to industrial monopolies the power to check competition, but it directly strikes at the Robinson-Patman Act. All Senators are aware of the fact, of course, that the Sherman Act and the Clayton Act were primarily designed to protect competition in the field of manufacturing and to prevent producers and processors from ganging up on the public and upon their fellow producers and processors. The Robinson-Patman Act on the other hand was primarily designed to protect the small retailer from the pressure exerted by huge mass buyers. In other words, it was designed to prevent abuses of monopolistic buying from hurting the channels of trade.

Mr. LONG. Mr. President, will the Senator yield for a question only?

Mr. DOUGLAS. I am glad to yield to the Senator from Louisiana.

Mr. LONG. Is it not true that in many respects the Robinson-Patman Act not only protected the small merchant against monopoly, but in many cases protected him against the enormous economic power of a mass purchaser?

Mr. DOUGLAS. That is correct.

Mr. LONG. A mass purchaser, such as a chain store, making great purchases, could get discounts so great that it would be impossible for independent merchants not receiving such discounts to compete.

Mr. DOUGLAS. Yes. As I remember the wording of the Robinson-Patman Act, its purpose was not merely to prevent monopolistic practices, but was also to prevent discriminating practices—

> Where the effect of such discrimination may be substantially to lessen competition.

Mr. LONG. Mr. President, will the Senator yield for another question?

Mr. DOUGLAS. If I may finish, I shall then yield to the Senator from Louisiana.

In other words, the purpose of the Robinson-Patman Act was to preserve the full flow of competition and not only to prevent it from being destroyed but from being lessened.

I now yield to the Senator from Louisiana.

Mr. LONG. Did not the Robinson-Patman Act also liberalize the definition of "injury to competition"? Whereas the Clayton Act had previously provided that in order to restrain the practice of discrimination among purchasers it must be shown that it substantially injured competition, meaning competition in a general sense, the Robinson-Patman Act recognized that that language was not adequate, and that it was necessary also to protect the individual competitor, which caused language to be inserted in the Robinson-Patman Act providing not only against practices the effect of which may be to lessen competition, but also against discriminatory practices which may injure the actual competitors.

Mr. DOUGLAS. Yes. And that is logical also, because how does one destroy competition unless one also unfairly destroys competitors? It was not the purpose of the Robinson-Patman Act to keep everyone in business, but it was the purpose to protect individual businessmen from unfair competition, just, as a matter of fact, I think it was the purpose of the Clayton Act to protect individual producers from being undersold by regional price cutting for the purpose of driving a competitor out of business.

Mr. LONG. Mr. President, will the Senator yield for a further question at that point?

Mr. DOUGLAS. I am glad to yield for a question.

Mr. LONG. Is it not true that under the Clayton Act, before the Robinson-Patman Act was passed, it was completely possible that the A & P might be given a huge discount, and an individual merchant across the street might not receive such a discount? Let us assume the A & P was receiving a 15-percent discount on a large line of goods and that the independent across the street, with a 20-percent gross mark-up was receiving no discount. Under the definition established by the Clayton Act the fact that one individual merchant would be driven out of business because of discrimination against him could not be shown as being a discrimination which injured competition, in a general sense. That made it necessary for the Robinson-Patman Act to provide that if an individual merchant were driven out of competition, the test would be whether the discrimination injured the individual competitor of the business which was receiving the discriminatory discount.

Mr. DOUGLAS. Yes, except, of course, the Robinson-Patman Act permitted discounts which were based on actual economies that the seller realized from the sale of a large quantity of goods to the individual purchaser. But the act did mean that the seller could only make a price cut in favor of A & P to the degree to which he actually realized economies. A & P could not turn the heat on the seller to get a reduction in excess of the actual economies realized from the sale of a large quantity of goods to the individual purchaser. It was that and that only at which the Robinson-Patman Act struck. Misunderstanding on that point has been rife and should be corrected.

Mr. LONG. Will the Senator yield for a question?

Mr. DOUGLAS. I yield.

Mr. LONG. Did not the Robinson-Patman Act go beyond simply making it unlawful for the big chain store to receive a discount, and made it unlawful for a purchaser to put similar pressure on the supplier to grant such illegal discounts?

Mr. DOUGLAS. Yes. The fault in these cases was not on the part of the seller but really on the part of the buyer. The buyer would say, "Now if we will buy so many carloads from you we would like to have you give us a price." I believe the record in some of these cases indicates that, first, the big buying firm would take, say, 20 percent of the seller's output, and receive a slight commission; then take 40 percent, and perhaps receive the same commission. Then they would say, "Why, you are such a fine fellow, we will take all your output, everything, and you will not have to worry at all what is going to happen to you. You can sell all your goods to us." The seller would do that and cut his connections with the other firms, and the next year the buyer would say, "We will cut your price 30 or 40 percent," and the poor supplier would say "No, no, don't do that." But the buyer had him.

I never like to use abusive analogies, and so there is no reflection upon any of the persons involved, but the behavior of these big chain outfits was very frequently similar to that of the spider which invited the fly to come into its parlor. The fly ventured in, and took step after step, and the spider was very enticing, and finally the spider pounced. Now it is precisely that which the history of a good many of these big purchasers in connection with the small suppliers has evidenced. Of course, in those cases it is the purchaser who is primarily responsible for the discrimination, and not the poor supplier who finds himself cut off and adrift from his previous connections with only this one market available for him. It is that fellow whom we are stepping in to protect against himself and against the enticement of the spider by preventing him from engaging in discriminatory pricing.

Mr. HILL. Mr. President, will the Senator yield?

Mr. DOUGLAS. I yield for a question only.

Mr. HILL. Does the Senator recall the illustration of the banyon tree which William Jennings Bryan used in his great speech against the tariff bill on the floor of the House of Representatives, when he was a Member of that body? Does the Senator from Illinois recall how Mr. Bryan told the story of the banyan tree?

Mr. DOUGLAS. I may say to the Senator from Alabama, without interrupting him, that my acquaintance with the oratory of William J. Bryan begins only with the Coliseum speech of 1896, or the Cross of Gold speech.

Mr. HILL. Does the Senator mean that his knowledge of William Jennings Bryan began only when the Senator arrived at adulthood?

Mr. DOUGLAS. It began only with the Coliseum Cross of Gold speech. But I want to hear the Senator tell Mr. Bryan's story of the banyan tree.

Mr. HILL. I trust the Senator from Illinois realizes that I was speaking only in good humor and in jest.

Mr. DOUGLAS. I ask the Senator to give us the story of the banyan tree.

Mr. HILL. The Senator probably recalls the simile used by Mr. Bryan when he spoke of the banyan tree.

Mr. DOUGLAS. No, I do not.

Mr. HILL. At the very center of the great limbs of this tree is found a fruit with a very enticing, tempting juice which greatly attracts the appetite of the native who lives in the region where the banyan tree grows. Mr. Bryan described how the native would climb up into the tree, thinking that he was to partake of this wonderful, spicy juice, this delectable, delicious juice of the fruit of the tree. He described how when the native climbed up into the tree to obtain this wonderful, delectable, fruit, the great, powerful limbs of this tree would close in on him and crush the native unto death.

The Senator from Illinois is describing something exactly similar to the native's experience with the banyan tree, is he not?

Mr. DOUGLAS. What the Senator has said about the banyan tree affords an even more graphic illustration than the time-worn analogy of the spider and the fly which I have brought forth. But both analogies are applicable. The big buyers can lure the small suppliers on, giving them favorable terms at first, giving them increased orders, and getting them more and more in their power, and then they can finally close in on them. The small supplier who is then stripped of his previous contacts can do nothing else than go along. He winds up, not as an independent businessman, but as a vassal and a serf to the big monopolistic buyer.

Mr. LONG. Mr. President, will the Senator yield for a question?

Mr. DOUGLAS. I am glad to yield.

Mr. LONG. Is it not true that if the old chain store practices, which existed prior to the Robinson-Patman Act, had continued much longer, not only would the independent supplier have found himself at the mercy of the chains, but he would have found that all his prior customers would have been driven out of business by the big buyers, so that he would have nowhere else to go? He would have no prospective purchasers in the event the big retail firms decided to cut him off.

Mr. DOUGLAS. I think we should realize that some of the low prices which the chains have charged have not been due to operating economies, but rather to the illicit advantages which mere size has given to them in squeezing down their suppliers. It is those abuses against which the Robinson-Patman Act was designed to operate. I say further that the Robinson-Patman Act was an act to preserve the competitive structures in distribution and in merchandising, just as the Sherman Act and the Clayton Act were designed to preserve competition in the field of manufacturing and processing. The two go together. When we strike at all three of these acts, when we tie the hands of the Government and allow bigness to crush smallness by unfair competition, then we increase the concentration of wealth, and the country is headed for a sharper division of classes.

Mr. CAPEHART. Mr. President, will the Senator yield?

Mr. DOUGLAS. I yield for a question only.

Mr. CAPEHART. Does the Senator believe in the Miller-Tydings Act?

Mr. DOUGLAS. The Senator from Indiana usually brings up the question of the Miller-Tydings Act. I do not know why he is trying to probe my mind on the Miller-Tydings Act.

Mr. CAPEHART. The question is very simple. Does the Senator believe in the Miller-Tydings Act?

Mr. DOUGLAS. I have reservations with respect to the Miller-Tydings Act; but the Miller-Tydings Act is not under discussion this afternoon. It would be just as appropriate for the Senator from Indiana to ask me what I thought of Canasta as to ask me what I think of the Miller-Tydings Act. It is not involved here at all. S. 1008 which we are now discussing does not affect it.

Mr. CAPEHART. Does the Senator know that the Miller-Tydings Act protects the drug retailers and denies any one of them the right to sell trademarked mechandise below the list price of the manufacturer?

Mr. DOUGLAS. Yes. I have the Miller-Tydings Act before me. It is Public Law No. 314, of the Seventy-fifth Congress.

Mr. CAPEHART. Does the Senator agree that as a result of the Miller-Tydings Act the Government has denied the druggists of America the right to pass on to the consumers lower prices should they care to do so?

Mr. DOUGLAS. I shall be very glad to discuss the subject with the Senator from Indiana on some pleasant evening out in the Midwest, when we can get together in the autumn of the year.

Mr. CAPEHART. Does the Senator realize that in one instance he is talking about protecting one segment of industry, namely, the manufacturers? I thought he might likewise be interested in protecting the consumers of America and the public against excessively high drug prices.

Mr. DOUGLAS. If the Senator from Indiana wishes to introduce a bill to repeal the Miller-Tydings Act, I am sure the junior Senator from Illinois will be very glad to give it careful consideration. But it is not an immediate subject for debate.

Mr. LONG. Mr. President, will the Senator yield for a question?

Mr. DOUGLAS. I yield for a question.

Mr. LONG. In effect, would it not be fair to make the point that actually the Miller-Tydings Act does no more for retail druggists than the basing-point system is doing for all the large monopolies of America? If we consider the difference between the two concepts, in terms of eliminating competition on prices, at least one promotes local home ownership of business, whereas the other promotes monopolistic control of business.

Mr. DOUGLAS. I think the observation of the Senator from Louisiana is, as usual, pertinent and apt.

Mr. President, I think we should look at the way in which section 2 (B) of the bill could be used to give price discriminations to large buyers. That arises from the fact that the seller, under section 2 (B), is specifically permitted "to absorb freight to meet the equally low price of a competitor in good faith."

If the seller is permitted to absorb freight, he can give what is apparently merely the absorption of freight, but what is in reality a price discrimination.

For example, take a firm in Indianapolis selling to a firm in Minneapolis. The firm in Minneapolis is, let us say, a big concern. The firm in Indianapolis will sell to that concern, but will absorb the freight. That is a price concession. It will be virtually impossible to detect, because when the case is brought in, and it is said, "You are selling to X in Minneapolis lower than you are selling to Y in the same city," the answer will be, "No; we are not selling lower. We are merely absorbing freight."

So the power given to absorb freight is really a direct legitimization of a price discrimination. So we move away from the violations of the Sherman and Clayton Acts which I have been discussing heretofore, to direct breaches in the Robinson-Patman Act. This breach is made even greater by section 3 of the bill, which permits discriminatory prices between buyers provided they are made "in good faith to meet an equally low price of a competitor."

Mr. LONG. Mr. President, will the Senator yield for a question?

Mr. DOUGLAS. I yield.

Mr. LONG. Does not section 3 to all intents and purposes simply have the effect of putting the Clayton Act back the way it was before the Robinson-Patman Act was passed to close the loopholes, especially by eliminating the so-called good-faith defense?

Mr. DOUGLAS. I think it goes back even beyond the Clayton Act. I think this takes us back beyond the Sherman Act, as a matter of fact. This is a plunge back into the dark ages of big industry before any antitrust laws were passed.

Mr. LONG. Is it not true also that no hearings were really held on the effect of section 3, because section 3 was offered as a substitute on the Senate floor, to which the Kefauver amendment was immediately accepted? On the House side an even stronger amendment, namely, the Carroll amendment, was offered, to protect small business. It is only now that we are considering section 3 in its full glory. It would virtually destroy the Robinson-Patman Act.

Mr. DOUGLAS. Before I came down here I read George Norris' autobiography. I remember that George Norris said that he had found there were three Houses—the Senate, the House, and the conference committee. Strange and wonderful things can be done in conference committees. I know that the Legislative Reorganization Act somewhat limited the powers of conference committees. I will say to my good friend from Maryland [Mr. O'CONOR] that I have been turning over in my mind for a couple of days the question whether I should raise a point of order in connection with section 3, on the ground that the conference committee exceeded the latitude permitted to under the Legislative Reorganization Act. However, I wanted to discuss these questions on their merits, and not raise technical difficulties. I believe that technically it is probable that the conference committee would be upheld. I hope the Senator from Maryland will excuse me for saying that I do not think it can be upheld morally, because the mandate given to the conference committee under the Kefauver and the Carroll amendments was really to prevent discrimination. But the committee then introduced this other clause, which, as I shall show, more or less sweeps away all powers of protecting businesses against discrimination.

Mr. CAPEHART. Mr. President, will the Senator yield?

Mr. DOUGLAS. I yield for a question only.

Mr. CAPEHART. Does the Senator agree that an individual seller, acting individually, should have the right to pay all the freight, absorb freight, or equalize freight?

Mr. DOUGLAS. I know precisely where the Senator is going to try to lead me, because he will say that if A can do it individually and if B can do it individually and if C can do it individually and if D can do it individually, then why cannot everyone do it; if it is all right for each of them to do it individually, then why is it not all right for all of them to do it? I say that an individual, isolated action is one thing; and joint or concurrent action is another. I say it is all right in an isolated case, divorced from others; yes. But it is not all right as part of a general plan in industries producing standardized goods not subject to quality competition, or where the effect might be to destroy competition.

Mr. CAPEHART. Mr. President, will the Senator yield further?

Mr. DOUGLAS. I am glad to yield for a question.

Mr. CAPEHART. Does the Senator from Illinois know that the Federal Trade Commission at the moment maintains that each seller has a right to equalize freight, absorb freight, or pay all the freight?

Mr. DOUGLAS. As I understand the situation, the Federal Trade Commission does not raise this question in an individual case, provided it is not part of a general plan or designed to eliminate competition.

Mr. CAPEHART. Mr. President, will the Senator yield for a further question?

Mr. DOUGLAS. I yield.

Mr. CAPEHART. Does the Senator from Illinois know of any Member of the Senate or of any one of the conferees on the part of the House who wishes to do anything but permit individual sellers to absorb freight, equalize freight, or pay all the freight? Does the Senator know of a single Member of the Senate or of any of the conferees on the part of the House who wants in any way to permit conspiracy or coercion to exist or have effect in the setting of prices, whether it be done by absorbing freight, equalizing freight, or setting prices in any way?

Mr. DOUGLAS. That is not really the question. It is not a question of whether the parties concerned get their heads together; but the question is whether unified action of this sort is good for the United States.

Mr. CAPEHART. Mr. President, will the Senator yield further?

Mr. DOUGLAS. I yield.

Mr. CAPEHART. Does the Senator from Illinois feel that if three people are in a given industry, they should be denied the right to pay the freight on their merchandise, when shipping it to various points in the United States? Suppose there are only three persons in a given industry, and suppose each one of them wishes to pay the transportation costs on everything he manufactures and sells. Should not each of them have the right to do so?

Mr. DOUGLAS. I think we must get all the facts in the case before we reach any decision in regard to that matter.

Mr. CAPEHART. I have stated all the facts.

Mr. DOUGLAS. No; there are three or four variables with which we deal in such a case; and we cannot consider just one of them all by itself. Suppose each one of those persons absorbs the freight, and suppose all three of them have an identity of prices before delivery and an identity of delivered prices. What would the Senator from Indiana say about that?

Mr. CAPEHART. I think that is the point that confuses the Senator from Illinois.

Mr. DOUGLAS. I think there is someone else who is confused in this case; but that is all right.

Mr. CAPEHART. The bill we are considering has to do with transportation costs, whereas the Senator from Illinois wishes, it seems, to talk about the base price of the seller. The base prices of the three sellers in the case I have mentioned might be the same or they might be different; yet all of them could be paying the total freight costs on what they shipped. I think that is where the confusion comes in regard to this measure.

My understanding of the bill and of the intention all the way through in this connection has simply been that in the absence of conspiracy, the individual seller will be permitted, acting independently, to pay the freight, absorb the freight, or equalize freight. If the bill does not permit that, then I am confused about it.

Mr. DOUGLAS. I believe, then, that if the Senator from Indiana will be patient, and will continue to exercise the broadmindedness which characterizes him, I shall be able to convince him; and when we reach the point of voting, I hope he will be on my side.

Mr. CAPEHART. Mr. President, since the Senator from Illinois questions my ability to understand what he says, I suggest that he stick 100 percent to the subject. If he will do that, I think we can understand his point, but not if he is going to talk about basing points and

other matters, which in my opinion have nothing to do with what we are trying to do in connection with this measure.

Mr. LONG. Mr. President, will the Senator yield for a question?

Mr. DOUGLAS. I am glad to yield for a question, although I would like to say that I believe my earlier remarks demonstrated how this bill does affect the basing-point system by legalizing the main ingredients of the basing-point system.

Mr. LONG. In the first place, if we were merely trying to legalize freight absorption, even down to the point of legalizing the basing-point practice, would not it be true that it could be legalized without having in the bill a section such as section 3? Is it not true that the basing-point system and freight absorption could be legalized without having in the bill a section like section 3, which would have the effect of striking the Robinson-Patman Act off the statute books?

Mr. DOUGLAS. Oh, yes.

Mr. LONG. For example, would not it be possible to legalize freight absorption, and at the same time that is done prevent discrimination to occur as between individual buyers within a given community? In other words, if there were two wholesalers in a given area, would not it be possible to permit freight absorption in shipments to one of them, only if the other received the same consideration?

For example, a man in my part of the country who was handling canned goods might be paying $390 per carload in freight charges; and his gross profit might be only $100. Obviously, the absorption of that freight bill for his competitor only would put him out of business.

Could not the law have been drawn so as to permit the basing-point system, but yet not to include a section such as section 3, which would permit discriminations which would run an individual competitor out of business?

Mr. DOUGLAS. That is correct.

It so happens that I object both to the basing-point section and to section 3. I should like to discuss section 3 in due course.

Mr. LONG. Mr. President, will the Senator yield for a further question?

Mr. DOUGLAS. I yield.

Mr. LONG. Is not this the Senator's position: He is objecting to the basing-point system on the grounds, first, that it prevents the development of new enterprise in the country; and, second, that it robs the American consumers? And is not he objecting to section 3 and to the parts of the bill which repeal parts of the Robinson-Patman Act, on the ground that it would enable a favored purchaser to run the individual competitor out of business?

Mr. DOUGLAS. That is correct, although there are even more bad aspects to the basing-point system. I also think that it is ultimately unhealthy to have retailing dominated by large chains, because I think the maintenance of small business is very valuable for political democracy; for the more widely diffused is property, the more independence and freedom people have.

Mr. LONG. Mr. President, will the Senator yield for a further question?

Mr. DOUGLAS. I yield.

Mr. LONG. Is it not true that, in line with the Senator's thinking in regard to these matters, the maintenance of the antitrust laws and restraining the enormous enterprises which are competing with the very small enterprises have the effect of saving a certain amount of home ownership of local business, as compared to absentee ownership, absentee landlordism, and absentee control of industry and business?

Mr. DOUGLAS. That is absolutely correct.

Now, Mr. President, if I may discuss section 2B, section 3, and section 4, a little bit more thoroughly, I shall appreciate it.

SECTION 2B—FREIGHT ABSORPTION

Section 2B of S. 1008 deals with freight absorption. In considering what changes this section would make in the law, it should first be noted how this section of the bill relates to the previous section. It has already been pointed out that section 2A would confer unreserved legality upon postage stamp and limited zone prices, and that it would confer substantially unreserved legality—insofar as the law against discrimination is concerned—upon basing point and unlimited zone prices. Each of these methods of pricing contains some amount of discrimination, since in any practice of averaging freight costs the seller charges some phantom freight to his nearby customers and absorbs a corresponding amount of freight when selling to his distantly located customers. Thus it may be observed that each of the pricing methods upon which some exemption from illegality would be given by section 2A would remain subject to the restraints of the present law only by virtue of the fact that each method involves freight absorption.

SWEEPING EXEMPTIONS UNDER SECTION 2B

But after conferring, in section 2A, certain exemptions upon freight absorption as practiced in a variety of specific pricing methods, the bill would confer, in section 2B, certain exemptions to freight absorption in general. Thus, a seller who is charged with committing an illegal price discrimination under this bill would be confronted with the question whether he should exercise his exemption under the specific pricing method he might be using, or under the exemption for freight absorption in general, as provided under section 2B. Except for postage stamp and limited zone prices, he would find the exemptions under section 2B more sweeping.

EVEN SMALL PROTECTION OF CARROLL AMENDMENT OMITTED

As S. 1008 passed the House, section 2B contained the so-called Carroll amendment. This amendment would have continued to make discriminations carried out through freight absorption (and phantom freight) illegal where the effect of the discrimination would in reasonable probability be that specified in the present law. The conferees have, however, struck out the Carroll amendment and substituted the following language:

> Except where such absorption of freight would be such that its effect upon competition will be to substantially lessen competition.

This language would make two drastic changes in the existing law. First, it would limit possible illegality to only one of the effects specified in the existing law—namely, "to substantially lessen competition."

That is it would not cover the effect on the competitor, but only the effect upon competition. Second, it would further limit even such possible illegality by the introduction of the new term "will be." I read again:

> That its effect upon competition will be to substantially lessen competition.

WOULD MAKE IT NECESSARY TO PROVE A FUTURE EVENT

Thus if this language should become law, the Federal Trade Commission could issue no order against discriminations carried out through freight absorption unless it could prove as a positive certainty that the discrimination would have the future effect of a substantial lessening of competition. Since it is not within the province of mankind to prove that a future event of this kind will absolutely take place—that it will take place, that it must take place, that it inevitably will take place—the effect of this language would be to legalize any and all discriminations carried out by means of freight absorption irrespective of either the past or the reasonably probable future effects of the discriminations. And "reasonably probable" has been the standard used by the Commission and the courts up to date.

WOULD PERMIT PRICE DISCRIMINATION

Under a literal interpretation of this language of section 2B, a seller would be free to absorb any and all freight charges to some customers, while refusing to absorb any freight charges to other customers located in the same town. For instance, a steel mill located in Chicago could still absorb all the freight charges on shipments to certain large fabricators in Denver, while refusing to absorb any freight charges to smaller competing fabricators in Denver. Since freight charges are an item of major importance in the delivered cost of steel, one may imagine that such a discrimination in favor of the large fabricators in Denver would soon put the smaller competitors there out of business. It could be done under the guise of freight absorption given to one, not to the other, but really through a price discrimination.

FREIGHT ABSORPTION CAN BE USED TO STIFLE COMPETITION AS WELL AS PHANTOM FREIGHT

I know there are those who say that freight absorption itself, as the distinguished Senator from Indiana has implied, is innocent because it does not involve phantom freight charges. Of course, not all freight absorption results in monopolistic competition, but it can be used as a major weapon of the trusts to control prices and stifle competition. This is not merely my opinion, but it has been enunciated by the Federal courts.

I want to read from an opinion in the Bond Crown & Cork Co. against the Federal Trade Commission case, decided by the United States Court of Appeals of the Fourth Circuit, on August 22, 1949, less than 2 months ago. The opinion was handed down by Judge John Parker. I think we all know who Judge Parker is. Judge Parker is a judge in the fourth circuit, who was nominated by President Hoover for membership on the United States Supreme Court. He was rejected by the Senate in 1930, on the ground that he was too conservative a judge to sit on the Supreme Court—rejected by a Senate in the days of Herbert Hoover, as being too conservative. Incidentally I think the Senate then made a mistake. But I shall not go into that, because I think Judge Parker has shown himself to be a very distinguished jurist. But this is not a radical judge speaking. This is not a judge prejudiced against business. This is a conservative judge whom one of our most conservative Presidents thought worthy to be a member of the Supreme Court.

What does Judge Parker say? I quote from pages 13 and 14 of the opinion:

> It is argued that the case here is distinguishable from the Cement Institute case because no "phantom freight" is involved; but there is involved freight absorption, resulting in equal delivered prices by all manufacturers selling in a given locality and unequal net returns to the manufacturers from sales to customers in different localities. So far as the questions before us are concerned, there can be no difference between phantom freight and freight absorption.

SECTION 3 OF S. 1008 VIRTUALLY NULLIFIES THE ROBINSON-PATMAN ACT

Mr. President, I should like now to discuss section 3 of the bill. Section 3 would virtually nullify the Robinson-Patman Act amendment to the Clayton Act. It would reestablish the good-faith defense, and by so doing it would place beyond the law any and all price discriminations of a seller, no matter how great and how destructive of small business it was, so long as another seller met, or offered to meet, the discriminatory price. Where a single seller made a discrimination having the specified monopolistic effects, and was not meeting the price of another seller in so doing, the Federal Trade Commission could issue a complaint. A cease and desist order might even be issued, provided it could find out about the discrimination and issue its order before another seller met, or offered to meet, the discriminatory price. But once another seller met or offered to meet the discriminatory price, the discrimination of neither seller could be stopped, even though the Commission could discover which of several sellers had initiated the discrimination. The fact that a second seller was meeting or offering to meet the discriminatory price would make the discrimination of both sellers currently legal.

In other words, all that is necessary is for a big purchaser to put the squeeze on one supplier. If he is able to get that supplier to make a discriminatory price in its favor, then every other firm is legally entitled to make a similar price discrimination, and the big buyer is similarly entitled to receive those discriminations. Once a supplier, no matter how small, makes this price discrimination, the gates are wide open and everyone can discriminate.

"GOOD FAITH" IS NO PROTECTION

That is not all, Mr. President. The bill provides:

> By showing that his lower price or the furnishing of services or facilities to any purchaser or purchasers was made in good faith to meet an equally low price of a competitor—

And so forth. What is the meaning of this phrase "good faith"? Suppose a big purchaser, a big retail chain, says to a supplier, "Look here. Supplier A has agreed to give us a 15-percent discount. You had better give us a 15-precent discount as well." It would not be necessary that supplier A actually had given a discount to the chain. There might be a slight terminological inexactitude in the representation which the big buyer gave to the supplier; it might not actually be true. But if the second supplier merely thought it was true, then it could be said that, in good faith, he was trying to meet the price of a competitor, that he was proceeding in good faith, even though he was the first to make the concession. Nevertheless, because he thought someone else had made a prior concession, that would justify him.

It can be seen how in any court of law, I will not say a sharp attorney, but an able attorney, could say, "My client thought he was merely matching the discounts given by other suppliers. He was proceeding in good faith." His discrimination would then become a legal act, so far as he was concerned, and a legal act so far as the buyers were concerned.

ROBINSON-PATMAN ACT AIMED AT CORRECTING "GOOD FAITH" ABUSES

It seems that the Congress which passed the Robinson-Patman Act 13 years ago was primarily concerned with correcting the abuses which the good-faith defense had created, as the Senator from Louisiana observed, in the prohibitory language of the Clayton Act. In reviewing the legislative history of this act in the Standard Oil Co. of Indiana case, the United States Court of Appeals for the Seventh Circuit pointed out the position of the good-faith defense under the old Clayton Act, and observed:

> But since large buyers could always get such price meeting by suppliers to justify a discrimination in price in their favor, the purpose of the act to avoid such discrimination was easily evaded.

The same court also pointed out that the chairman of the House conferees on the Robinson-Patman bill (I assume that was Representative PATMAN himself) had explained the purpose of modifying the old "good faith" defense, and quoted his explanation on the floor of the House as follows:

> It is to be noted, however, that this does not set up the meeting of competition as an absolute bar to a charge of discrimination under the bill. It merely permits it to be shown in evidence. This provision is entirely procedural.
>
> If this proviso were construed to permit the showing of a competing offer as an absolute bar to liability for discrimination, then it would nullify the act entirely at the very inception of its enforcement, for in nearly every case mass buyers receive similar discriminations from competing sellers of the same product.

That language is found in the CONGRESSIONAL RECORD, June 15, 1936, at page 9418.

ROBINSON-PATMAN ACT AIMED AT PRICE CUTS NOT BASED ON ECONOMICS

What was said 13 years ago of the ability of large buyers to obtain from two or more suppliers discriminatory price quotations in their favor is no less true today. The tendency of sellers to grant special price concessions to large buyers is one of the most widely observed characteristics of business behavior. Such tendencies to grant special price concessions to large buyers do not arise merely from the seller's prospect of a cost saving in selling to the large buyer. It comes because of mass offers of mass prices exerted by the big buyers who can take away a large share of the business of the supplier and therefore tend to run him out of business.

The present law, the Robinson-Patman Act, is not intended to discourage price discriminations which are justified by differences in the costs of supplying different sellers, because the cost defense is always a complete and final defense against a charge of price discrimination. A price discrimination which is indefensible on any grounds is that which goes beyond cost savings and permits large buyers to drive small buyers out of business.

PRICE CUTS BASED ON REAL SAVINGS NOT QUESTIONED

The individual seller may well reason that the prospect of an increase in the volume of his business which would result for his sales to a large buyer will result in cost savings by a further spreading of his overhead costs. But it is the total volume of business, the orders of sellers, both large and small, which justifies overhead and permits the economies of mass production. It is not just the orders of the large buyers which do these things.

Just as the good-faith defense would justify price discriminations by which large buyers put small buyers out of business, it would also justify discriminations by which large sellers put small sellers out of business. When a large seller, with national sales outlets, makes a special low price in one particular territory, at least one other seller will usually meet this special price. In this case, the good-faith defense would exempt the discriminations from a cease-and-desist order, even though the result was to drive out of business small competing sellers having only local or regional sales outlets.

I am afraid, therefore, that this section may invalidate a part of the Federal Trade Commission Act which was designed to prevent unfair trade practices, and one of those unfair trade practices is regional price cutting. This bill may permit regional price cutting, because

so long as it was matched by a small competitor, the big man could allege that he was simply trying to meet the price of the small competitor.

SECTION 3 HELPS BIGNESS BY HURTING SMALL BUSINESS

It is interesting to note that the Wall Street Journal of October 13 expressed the opinion that the "real relief for industry" contained in this bill lies in the good-faith defense which would be established by section 3. I should like to ask, "For what section of industry? Relief for big industry, or relief for small industry?" Section 3 is certainly not a measure to help small industry or small buyers; it is a measure to help big buyers and big sellers.

SECTION 4D WILL HINDER ENFORCEMENT OF ROBINSON-PATMAN AND CLAYTON ACTS UNTIL AFTER THE DAMAGE IS DONE

Mr. President, I desire to call attention to a little understood passage in section 4D of the proposed bill, namely:

> The term "the effect may be" shall mean that there is reliable, probative, and substantial evidence of the specified effect.

Those seem to be very innocent words, but I should like to point out, in the first place, that this section 4D is not merely a modification of the bill, but it is a definition of what the effects may be of the Clayton Act and the Robinson-Patman Act. If we pass section 4D we are fundamentally modifying the whole procedure under the Clayton and the Robinson-Patman Acts.

The Clayton Act, as modified by the Robinson-Patman Act, gave to the Federal Trade Commission the power to issue cease-and-desist orders, and to thereby virtually enjoin acts which, if carried out, might have a reasonable probability of reducing or eliminating competition in the future. Notice the wording of the Robinson-Patman Act on this score. It is declared unlawful to discriminate "where the effect of such discrimination may be substantially to lessen competition or tend to create a monopoly in any line of commerce, or injure, destroy, or prevent competition with any person who either grants or knowingly receives the benefit of such discrimination, or with customers of either of them."

In other words, the Robinson-Patman Act looked to the future, it looked to the effects of action. It said, "Is there a reasonable possibility that in the future these acts of discrimination, if carried out, will result in a substantial lessening of competition or in unjustifiable injury to individual competitors?" It did this because it wanted to head off these evils before they occurred.

In my brief remarks last night I used the analogy that this previous interpretation was similar to a traffic light. The red light holds back traffic, let us say, going from north to south, while permitting the traffic going from east to west to move. The red light is put up so that north- and south-bound traffic will not collide with east- and west-bound traffic. The purpose is to prevent accidents, and it is a good idea.

DAMAGE SHOULD BE PREVENTED BEFORE IT OCCURS—SECTION 4D ALLOWS DAMAGE TO PRECEDE ENFORCEMENT AFTER IT IS TOO LATE

Mr. President, the provision in the bill is that the term "may be" shall mean only that there is—and listen to this—"reliable, probative, and substantial evidence of the specified effects." That means that these acts can only be proceeded against after they have occurred, and not restrained before they occur.

This point is of fundamental importance. It means that the Federal Trade Commission is prevented from going into a situation where there is price discrimination and where the chain stores are gaining somewhat at the expense of retailers. Under this bill it would be prevented from going in and restraining these acts because it could not be proved that these effects have yet occurred.

The Federal Trade Commission must instead wait until after competitors have been driven out of business, it must wait until after competition has been destroyed, it must wait until after injury has been committed, before it can proceed. Suppose a verdict is then obtained; that is small consolation to the individual businessman who has been put out of business, it is small consolation to the consumer who finds himself faced with a monopoly.

Mr. President, I do not say that the lawyers who wrote this clause are sharp—there may be some objection to that—but I will say that they were extremely able.

Mr. LONG. Mr. President, will the Senator yield for a question?

Mr. DOUGLAS. I yield only for a question.

Mr. LONG. Is it not true that what this amendment proposes to do is to change the law which prevents discrimination while the competitor is still in business, to make it work so that it will close the stable door after the horse has been stolen, so that the man who is in danger of injury will have to wait until after he has been injured before he can obtain aid?

Mr. DOUGLAS. That is the effect, and it is one of the jokers in the bill. It must be proved that the effect has occurred, not merely that there is a reasonable probability that it will occur but that it actually happened.

Mr. President, I had thought that one of the functions of the administrative laws of this country was not merely to punish the guilty after crime had been committed, but to prevent guilty acts from occurring. That is certainly one of the bases of the whole law of equity. It is certainly one of the bases of the whole law of injunction. It is certainly one of the bases of the series of cease-and-desist orders which our administrative tribunals are permitted to issue to prevent the processes of monopoly from going so far as to eliminate the individual businessman and substantially lessen the processes of competition upon which the consuming public depends in order to get goods at relatively low prices.

Mr. President, all this would be swept away. The Federal Trade Commission could proceed only after the harm had been done, after the injury had been inflicted. Then, if the buyer or seller can prove that a price discrimination has been made by another seller, there will be no ground for action, or if one seller thinks that a lower price has been given by another seller, this will remove any ground for action, or if a discrimination is proved, it can be alleged that it is not a discrimination, but an absorption of freight.

Mr. President, I say that sections 2 (b), 3, and 4 (d) of S. 1008 would repeal the Robinson-Patman Act, and we would go back to prior to the Clayton Act, and give to the big retailing chains of the country the power to obtain by the predatory force of mass buying, illegal price discriminations which would permit them to undersell small businesses which in other respects would be able to hold their ground.

THE REAL ISSUE: PRESERVATION OF THE AMERICAN SYSTEM OF COMPETITION AGAINST THE GROWING POWER OF MONOPOLY

Mr. President, I hope that as we discuss this measure the Members of the Senate and the citizens of the country may realize what the issues really are. The issues are the preservation and the protection of the American system of competition against the growing power of monopoly. Monopoly has made great gains in this country, but its growth has been restrained by the laws of this Nation. Ineffective as the Sherman Act, the Clayton Act, the Robinson-Patman Act have been, nevertheless they have held back the process of monopoly. They have preserved a much larger field of competition than would otherwise have existed. They have therefore contributed to a wider distribution of property and a wider distribution of business opportunity than would have been the case had they not existed.

Compare the United States with Great Britain. Great Britain was a country which did not have any laws prohibiting combinations, which did not have any laws restraining monopoly; which permitted business to operate as it willed. Great Britain was a country whose economists gave lip service to the theory of competition and who based their economic theories upon competition. But Great Britain was also a country in which the practice of competition had virtually died out.

Unrestrained by law in Great Britain the banks consolidated until five private banks controlled the entire banking resources of Great Britain. There were only four railroads in Great Britain. There was only one chemical firm, only two or three tobacco concerns, not more than half a dozen breweries in Great Britain. There were only a few distillers there. There were only three big milling concerns and two cocoa concerns in Great Britain. In line after line the ownership industries of Great Britain had become concentrated in fewer and fewer hands.

UNRESTRAINED MONOPOLIES LEAD TO SOCIALISM OR FASCISM

In those industries in which there were 20, 30, 40, 50, or 60 firms in the twenties

and the thirties they began to get together in price combinations. They got together to fix prices, and when prices are fixed output is restricted. That was done in coal. It was done in textiles. It was done in steel. Great Britain finally wound up as a completely cartelized country, despite the fact that its economists still talked about competition, and wrote textbooks about how prices would be fixed under competition, and how the national product would be divided under competition between the claimants of industry. Great Britain, without legislation, even though with verbal adherence to competition, went the way of Germany toward cartels.

Germany had neither legislation nor intellectual adherence to the principles of competition. Germany has always believed in the administrative state or the police state. Germany had already developed and legalized cartels, under which control over industry was in the hands of a few men. Great Britain followed suit.

I ask you, What has been the fate of those countries? The fate of Germany was that when industry became concentrated in a few hands those industrialists then decided that they should take over the government. That was one, although, of course, not the only stream which fed the Nazi movement. The industrialists did not want to have government interfere with them.

In Great Britain, where the owners of industry were more gentle than the owners of industry in Germany, the British employers did not follow the German pattern. But the British people faced this issue: Were they going to have a private monopoly or a public monopoly? They chose, at least provisionally, that with all the faults of a public monopoly, it was better to have public monopoly than private monopoly if they had to have monopoly. They felt that they could at least have a greater degree of control through the ballot over public monopoly than they would have over private monopoly, because, being poor people, they did not own the shares of industry.

Mr. HILL. Mr. President, will the Senator yield?

The PRESIDING OFFICER (Mr. GRAHAM in the chair). Does the Senator from Illinois yield to the Senator from Alabama?

Mr. DOUGLAS. I yield.

Mr. HILL. Does not the Senator think that one of the great dangers resulting from passage of the bill is that it would be taking a long step toward socialism? The Senator has said that if there is to be monopoly in this country, the people are going to insist that it not be private monopoly for the benefit of a very few but that it shall be public monopoly for the benefit of the people.

Mr. DOUGLAS. The Senator from Alabama has stated both the issue and the danger. If we have private industry concentrated in a few hands. we either invite the owners of industry to take over the State or we invite the people to take over the industry, and I want to make it clear that I am equally opposed to both. Mr. President, I am equally opposed to both, because I believe that competition is the best course for us to follow.

Mr. HILL. Will the Senator yield to me again?

Mr. DOUGLAS. I am glad to yield.

Mr. HILL. I will say that I join with the Senator. I am equally opposed to both private monopoly and Government monopoly. What the Senator is standing here so valiantly fighting against now is monopoly in any form.

Mr. DOUGLAS. That is correct.

Mr. HILL. Be it private monopoly or Government monopoly.

Mr. DOUGLAS. One of the ironical things about the whole situation is that while we stand here and fight to preserve competition, to preserve the ability of American businessmen to be free to produce and to sell, to try to put business on the basis of efficiency and not merely to meekly follow along after the big leader, we find that the very interests which in some cases we are seeking to protect, do not want that protection. Even though we are trying to save the very life of competition which they say they want, and even though we are trying to preserve their future by removing from them the possibility that as they become more and more monopolized, the industries will be taken over, we are nevertheless fought by some of those whom we would help.

One of the ironical features of the whole matter is that those who really struggle to preserve the competitive system are denounced by many of those who give verbal adherence to that system.

Mr. HILL. Mr. President, will the Senator yield?

Mr. DOUGLAS. I am glad to yield.

Mr. HILL. Has the Senator from Illinois had the opportunity to examine the recent report of the Federal Trade Commission captioned "The Concentration of Productive Facilities"?

Mr. DOUGLAS. I have seen that report, but I would ask unanimous consent that the Senator from Alabama may be permitted to——

Mr. HILL. I do not wish to interrupt the Senator's speech, but I wondered if the Senator recalled that in that report it was brought out that 46 percent, almost one-half of the total net capital assets of all manufacturing corporations in the United States in 1947, was concentrated in the 113 largest manufacturers? These manufacturing corporations, each with assets in excess of $100,000,000, owned $16,093,000,000 of net capital assets. The Department of Commerce reports that in 1946 there were 101,739 manufacturing concerns making tax returns. In other words, of 101,739 manufacturing concerns 113 of them owned 46 percent of the total net capital assets of all manufacturing corporations in the United States.

Mr. DOUGLAS. I should say that the figures given by the distinguished Senator from Alabama are completely correct. They indicate that in spite of all our efforts we have already gone far along the road to monopoly. I believe that we should try to arrest the drift, to reverse it, and to decrease the power of the big monopolies. But this bill would accelerate the unfortunate trend. The bill would take away the protection which the law gives to the competitive system. It would take away the ability of the state to maintain the system of competition, and turn over competition, bound and shackled, to the monopolists of the country.

Mr. HILL. Mr. President, will the Senator from Illinois yield?

Mr. DOUGLAS. I yield for a question.

Mr. HILL. Would not the Senator say that what the bill does is to have the Government open the door for the very monopoly against which the Senator speaks so eloquently?

Mr. DOUGLAS. That is correct.

Mr. President, I now make a motion to recommit the conference report to the conference committee, with the request that it report on the bill on January 20, 1950.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. KERR in the chair). The motion to recommit is not in order at this time, the House having acted upon the conference report.

Mr. DOUGLAS. Mr. President, I move that consideration of the conference report on Senate bill 1008 be postponed until January 20, 1950.

The PRESIDING OFFICER. That motion is in order.

Mr. DOUGLAS. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The roll was called, and the following Senators answered to their names:

Aiken	Hayden	McKellar
Anderson	Hickenlooper	McMahon
Baldwin	Hill	Magnuson
Bridges	Holland	Malone
Cain	Ives	Martin
Capehart	Jenner	Millikin
Chapman	Johnson, Colo.	Morse
Connally	Johnson, Tex.	Myers
Cordon	Johnston, S. C.	Neely
Donnell	Kem	O'Conor
Douglas	Kerr	O'Mahoney
Downey	Kilgore	Pepper
Dworshak	Knowland	Russell
Ecton	Langer	Saltonstall
Ellender	Leahy	Schoeppel
Ferguson	Lodge	Thomas, Utah
Fulbright	Long	Watkins
George	Lucas	Wherry
Graham	McCarthy	Williams
Green	McFarland	

The PRESIDING OFFICER. A quorum is present. The question is on agreeing to the motion of the Senator from Illinois [Mr. DOUGLAS] to postpone further consideration of the conference report on Senate bill 1008, the so-called basing-point bill, to January 20, 1950.

Mr. O'CONOR. I move that the motion of the Senator from Illinois be laid on the table.

Mr. SALTONSTALL. I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. WHERRY. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The motion is not debatable.

Mr. WHERRY. A parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state the inquiry.

Mr. WHERRY. Mr. President, I just entered the Chamber. I understand that the distinguished Senator from Illinois [Mr. DOUGLAS] has moved to postpone the further consideration of the conference report to January 20, 1950.

The PRESIDING OFFICER. And the Senator from Maryland [Mr. O'CONOR] has moved that that motion be laid on the table.

The yeas and nays have been ordered, and the clerk will call the roll.

The Chief Clerk proceeded to call the roll.

Mr. JOHNSON of Texas (when his name was called). On this vote I have a pair with the senior Senator from Kansas [Mr. REED]. If he were present and voting, he would vote "yea." If I were permitted to vote, I would vote "nay." I withhold my vote.

The roll call was concluded.

Mr. MYERS. I announce that the Senator from Virginia [Mr. BYRD] and the Senator from Oklahoma [Mr. THOMAS] are absent on official business.

The Senator from New Mexico [Mr. CHAVEZ], the Senator from Delaware [Mr. FREAR], the Senator from South Carolina [Mr. MAYBANK], the Senator from Nevada [Mr. MCCARRAN], the Senator from Arkansas [Mr. MCCLELLAN], the Senator from Virginia [Mr. ROBERTSON], the Senator from Alabama [Mr. SPARKMAN], the Senator from Mississippi [Mr. STENNIS], and the Senator from Maryland [Mr. TYDINGS] are absent by leave of the Senate on official business.

The Senator from Iowa [Mr. GILLETTE] is absent by leave of the Senate.

The Senator from Mississippi [Mr. EASTLAND], the Senator from North Carolina [Mr. HOEY], the Senator from Minnesota [Mr. HUMPHREY], the Senator from Wyoming [Mr. HUNT], the Senator from Tennessee [Mr. KEFAUVER], the Senator from Montana [Mr. MURRAY], the Senator from Idaho [Mr. TAYLOR], and the Senator from Kentucky [Mr. WITHERS] are absent on public business.

The Senator from Minnesota [Mr. HUMPHREY] is paired on this vote with the Senator from Maine [Mr. BREWSTER]. If present and voting, the Senator from Minnesota would vote "nay," and the Senator from Maine would vote "yea."

I announce that on this vote the Senator from Tennessee [Mr. KEFAUVER] is paired with the Senator from Ohio [Mr. BRICKER]. If present and voting, the Senator from Tennessee would vote "nay" and the Senator from Ohio would vote "yea."

I announce further that on this vote the Senator from Alabama [Mr. SPARKMAN] is paired with the Senator from Minnesota [Mr. THYE]. If present and voting, the Senator from Alabama would vote "nay," and the Senator from Minnesota would vote "yea."

Mr. SALTONSTALL. I announce that the Senator from Maine [Mr. BREWSTER], who is necessarily absent, is paired with the Senator from Minnesota [Mr. HUMPHREY]. If present and voting, the Senator from Maine would vote "yea," and the Senator from Minnesota would vote "nay."

The Senator from New Hampshire [Mr. TOBEY] is necessarily absent.

The Senator from Ohio [Mr. BRICKER], who is absent on official business with leave of the Senate, is paired with the Senator from Tennessee [Mr. KEFAUVER]. If present and voting, the Senator from Ohio would vote "yea," and the Senator from Tennessee would vote "nay."

The Senator from Nebraska [Mr. BUTLER], the Senator from Vermont [Mr. FLANDERS], the Senator from South Dakota [Mr. MUNDT], and the Senator from New Jersey [Mr. SMITH] are absent on official business with leave of the Senate. If present and voting, the Senator from New Jersey [Mr. SMITH] would vote "yea."

The Senator from New York [Mr. DULLES] and the Senator from Michigan [Mr. VANDENBERG] are absent by leave of the Senate.

The Senator from Minnesota [Mr. THYE] who is detained on official business, is paired with the Senator from Alabama [Mr. SPARKMAN]. If present and voting, the Senator from Minnesota would vote "yea," and the Senator from Alabama would vote "nay."

The Senator from North Dakota [Mr. YOUNG] is detained on official business.

The Senator from New Jersey [Mr. HENDRICKSON], who is absent by leave of the Senate, is paired with the Senator from Ohio [Mr. TAFT], who is necessarily absent. If present and voting, the Senator from New Jersey would vote "nay," and the Senator from Ohio would vote "yea."

The Senator from Maine [Mrs. SMITH], who is absent by leave of the Senate, is paired with the Senator from South Dakota [Mr. GURNEY], who is detained on official business. If present and voting, the Senator from Maine would vote "nay," and the Senator from South Dakota would vote "yea."

The Senator from Wisconsin [Mr. WILEY] is absent on official business.

The Senator from Kansas [Mr. REED] is absent by leave of the Senate and his pair has been previously announced by the Senator from Texas [Mr. JOHNSON].

The result was announced—yeas 29, nays 29, as follows:

YEAS—29

Baldwin	Jenner	Martin
Bridges	Johnson, Colo.	Millikin
Cain	Kem	Myers
Capehart	Kerr	O'Conor
Chapman	Knowland	Saltonstall
Cordon	Lodge	Schoeppel
Donnell	Lucas	Watkins
Dworshak	McCarthy	Wherry
Ecton	McFarland	Williams
Hickenlooper	McMahon	

NAYS—29

Aiken	Green	McKellar
Anderson	Hayden	Magnuson
Connally	Hill	Malone
Douglas	Holland	Morse
Downey	Ives	Neely
Ellender	Johnston, S. C.	O'Mahoney
Ferguson	Kilgore	Pepper
Fulbright	Langer	Russell
George	Leahy	Thomas, Utah
Graham	Long	

NOT VOTING—38

Brewster	Dulles	Gurney
Bricker	Eastland	Hendrickson
Butler	Flanders	Hoey
Byrd	Frear	Humphrey
Chavez	Gillette	Hunt
Johnson, Tex.	Robertson	Thye
Kefauver	Smith, Maine	Tobey
McCarran	Smith, N. J.	Tydings
McClellan	Sparkman	Vandenberg
Maybank	Stennis	Wiley
Mundt	Taft	Withers
Murray	Taylor	Young
Reed	Thomas, Okla.	

The VICE PRESIDENT. On this vote the yeas are 29 and the nays are 29. Inasmuch as the Chair would vote in the negative, his vote is not necessary to defeat the motion. Therefore the motion is lost.

Mr. LONG subsequently said: Mr. President, I move that the Senate reconsider the vote by which the consideration of the conference report on Senate bill 1008 was postponed until January 20, 1950.

Mr. HILL. Mr. President, I move to lay that motion on the table.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Alabama to lay on the table the motion of the junior Senator from Louisiana.

The motion to lay on the table was agreed to.

Mr. O'MAHONEY. Mr. President, I am very happy that the Senate has not laid this motion on the table. As the Senator who originally introduced the language of the bill which became S. 1008 and went to conference, I wish briefly to tell the Senate why I believe the motion of the Senator from Illinois should be agreed to, and why the legislation should be allowed to go over until January for further consideration.

SERIOUS TECHNICAL DEFECT IN CONFERENCE REPORT ON S. 1008

Mr. President, we all know the difficulties under which the Senate is now laboring. There are so many committee meetings and so many conferences going on that Senators find it difficult to stay upon the floor of the Senate and listen to the debates. But even under those circumstances, I feel that I must call the attention of the Senate to a serious and important technical defect which appears in the pending conference report. In my opinion, failure to remedy this defect would result only in the defeat of the objectives of the legislation if the conference report should be agreed to.

I have only the greatest admiration for the work of the chairman of the conferees, the Senator from Maryland [Mr. O'CONOR]. I know that he tried his best to work out a bill which would attain the objectives expressed by the author of the bill when it was introduced. Those objectives were: First, to maintain the vigor of the antitrust laws; and, secondly, to clear up by statutory enactment what I conceived to be an unnecessary interpretation of the dicta of the Supreme Court in the Cement decision.

In order to do that the bill provided in technical language, of course, that delivered prices and freight absorption, when practiced by industrialists independently, without collusion or monopolistic agreement of any kind, were not in violation of the law. To do this it was necessary to make clear that where freight absorption itself or delivered prices by themselves did not have the

specific effect of violation of the antitrust law, they were not illegal. So it became necessary to define in the bill the meaning of the words "the effect may be," because in the Clayton Act as it was originally passed, these words were inserted for the express purpose of giving to the Federal Trade Commission the power, the authority, and the duty of determining whether or not the effect of certain acts, discrimination in prices, and agreements to absorb freight, for example, might have the effect of substantially lessening competition when they were adopted by collusive methods. In other words, this language expressed the purpose of the Clayton Act, which was to provide a system of preventing monopolistic practices.

So the definition which was written into the bill as originally introduced was couched in language intended to reaffirm the decisions on this point rendered by the Supreme Court and the other Federal courts over a period of 20 years. That definition in the bill as introduced was to the effect that the words "the effect may be" meant that the reasonable and probable results of the acts in controversy would be substantially to lessen competition.

INADVERTENT DEFINITION DOES NOT EXPRESS INTENTION OF CONGRESS

Through a number of inadvertences, which it is unnecessary to go into now the definition was changed upon the floor of the Senate when the bill was first passed. I have before me the record of that day's debate, and will be very glad to include it in my remarks if necessary. That debate clearly shows that there was an inadvertent mistake in adopting language intended to embody the long-standing interpretation of those words. That mistake was cleared up when the House acted upon the bill, and the definition which appeared in section 4 (D) was written by the House as follows:

> The term "the effect may be" shall mean that there is reasonable probability of the specified effect.

When the conferees acted, however, Mr. President, they abandoned that language and returned to the inadvertent language of the Senate amendment with an additional word, so that it reads now in the conference report:

> The term "the effect may be" shall mean that there is reliable, probative, and substantial evidence of the specified effect.

When the chairman of the conferees was good enough to let me know what the action had been, I immediately pointed out that the result of that definition would be to amend the Clayton Act in other sections, that it would amend other provisions of that law, and thereby would bring about a result which was never intended. The conferees were good enough to give consideration to that statement of mine. But instead of changing the definition they undertook to reach the desired result by a statement in the report of the conferees which sought to limit the application of the definition to the amendments embodied in S. 1008. This is the language which was introduced into the report of the managers on the part of the House and, as filed in the House, is now before us:

> The conference committee in all their deliberations have construed the definitions in section 4 as applying only to the defined terms where they appear in this act. Thus, for example, the definition of the phrase "the effect may be" will apply to this phrase as used in section 2 (b) of the Clayton Act as hereby amended, and as used in the proviso which this act adds to section 2 (a) of the Clayton Act, but will not apply to the same phrase or any similar phrase used elsewhere in section 2 (a) or in any other portion of the Clayton Act.

MEANING OF DEFINITION NOT CHANGED BY CONFERENCE REPORT

Mr. President, every lawyer who has studied statutory construction knows that it has been the undeviating rule of the Supreme Court that an enactment of Congress will be interpreted as meaning what it says, and not as meaning something else which may be set forth in a report or in debate. The rule of the Supreme Court and of all courts is that the words of a statute, if they are unambiguous, will be construed as meaning what they say, and that the court will not attempt by extrinsic evidence to change the plain meaning of words. It is only when the words are ambiguous that the courts will go to any outside evidence, to any statement in any report, to any statement upon the floor, to explain the meaning of a statute.

So, Mr. President, since that is the rule, and I shall be able to demonstrate it clearly in a moment, these words of the conferees are absolutely without effect, because the language of the definition is so clear that nobody can misunderstand it:

> The term "the effect may be" shall mean that there is reliable, probative, and substantial evidence of the specified effect.

Now, that definition, thus written in clear words which are incapable of misunderstanding, will be read into every section of the Clayton Act if this conference report is approved.

Mr. FERGUSON. Mr. President, will the Senator yield?

Mr. O'MAHONEY. I yield.

Mr. FERGUSON. On what authority does the Senator say it will be read into all other sections, if this particular measure does not purport to amend or repeal other sections? Does the Senator understand my question?

Mr. O'MAHONEY. Will the Senator repeat his question?

Mr. FERGUSON. I say, what is the authority for saying that the words will affect the meaning of every section of the Clayton Act, if this particular measure does not purport to repeal or to amend the other sections?

Mr. O'MAHONEY. Because the Court will define these words in the same way in every section of the Clayton Act, and particularly is that true with respect to section 2 (a).

Mr. FERGUSON. Well——

Mr. O'MAHONEY. The Senator will pardon me for continuing, because we are interested here in getting at the root of this difficulty. The bill before us amends section 2 (a) of the Clayton Act. Section 2 (a) of the Clayton Act is the section which prohibits price discriminations. I call to the attention of the Senate the fact that section 2 of the pending bill amends section 2 (a), not by changing its language, but by adding a new proviso at the end of the section. Now, in reading section 2 (a) of the Clayton Act as it now stands in the law, we find in the first sentence of that section the words "where the effect of such discrimination may be substantially to lessen competition." By the conference report we are asking the Court to say that in section 2 (a) of the Clayton Act the words "the effect may be" in one sentence of section 2 (a) mean one thing and in another sentence at the end of the same section mean something else which this bill does not attempt to express. That is a construction which, in my opinion, cannot possibly stand. And I base that argument, Mr. President, on the fact——

Mr. FERGUSON. Mr. President, will the Senator yield?

Mr. O'MAHONEY. Yes, indeed.

Mr. FERGUSON. Are there Supreme Court decisions interpretative of this law which holds those words to mean something other than the conference report definition?

Mr. O'MAHONEY. Yes. The decisions of the Court for some 20 years have held that the words "the effect may be" mean the reasonable probability of such an effect.

Mr. FERGUSON. Would the conference report alter the meaning of those words?

Mr. O'MAHONEY. It would.

Mr. FERGUSON. Does the Senator think there is enough ambiguity in the language to cause the Court to say, "We will use the language of the report to aid us in the construction of the legislative intent"?

Mr. O'MAHONEY. No. I say that there is not enough ambiguity.

Mr. FERGUSON. Then the words in the report do not mean a thing?

Mr. O'MAHONEY. In my judgment, the words in the report mean nothing.

Mr. FERGUSON. That is what I am getting at. If there are clear Supreme Court decisions construing those words to mean a certain thing, which the Senator now says is true, the mere fact that the report indicates there is an ambiguity which it is desired to have construed in a certain way certainly would not affect the Supreme Court decisions.

Mr. O'MAHONEY. The Supreme Court will not go to the report, because if it should go to the report it would say, "If the Congress had meant to do it, it should have done it in the act itself."

Mr. President, the rule for which I am contending has been clearly laid down over and over again, but I think it important that there should be in the record several quotations which I have obtained from responsible authorities with respect to the point I am now urging.

Only last year Associate Justice Robert H. Jackson, of the Supreme Court, wrote an article for the American Bar Association Journal on the meaning of statutes.

The title of his article was "The Meaning of Statutes: What Congress Says or What the Court Says." I quote the following language from Associate Justice Jackson:

I, like other opinion writers, have resorted not infrequently to legislative history as a guide to the meaning of statutes. I am coming to think it is a badly overdone practice, of dubious help to true interpretation and one which poses serious practical problems for a large part of the legal profession. The British courts, with their long accumulation of experience, consider Parliamentary proceedings too treacherous a ground for interpretation of statutes and refuse to go back of an act itself to search for unenacted meanings. They thus follow Mr. Justice Holmes' statement, made, however, before he joined the Supreme Court, that "We do not inquire what the Legislature meant, we ask only what the statute means." (American Bar Association Journal, July 1948, The Meaning of Statutes: What Congress Says or What the Court Says, by Robert H. Jackson, Associate Justice of the Supreme Court of the United States.)

I do not know how the point could be put into more explicit and plain language. Congress must be interpreted as meaning what it says, and not as having the power by some statement outside the law to change the plain meaning of the words contained in the law. The function of the Congress is to draft the law. The function of the court is to interpret the law.

SUPREME COURT REFERS TO LEGISLATIVE REPORT ONLY WHEN LANGUAGE IS AMBIGUOUS

Here we have the rule of interpretation which has been followed, so far as I can learn, not only in the British courts, as Justice Jackson pointed out in his article, but in our own Supreme Court and in our own Federal courts. We do indeed, as Justice Jackson said, resort to extrinsic language occasionally, but only when the law is written in ambiguous words. This was the point of view which was expressed by the Supreme Court in United States against Shreveport Grain & Elevator Co., a decision rendered in 1932. It is to be found in 387 U. S., at page 77. Listen to the language of the Supreme Court:

Our attention is called to the fact that the House Committee on Interstate and Foreign Commerce, in reporting the bill which afterward became the act in question, agreed with the view that the authority to make rules and regulations was confined to the establishment of tolerances and exemptions, and that the Senate Committee on Manufactures reported to the same effect. In proper cases such reports are given consideration in determining the meaning of a statute, but only where that meaning is doubtful. They cannot be resorted to for the purpose of construing a statute contrary to the natural import of its terms.

Here is a plain, expressive declaration by the Supreme Court of the United States that where the words in the statute are unambiguous they control, and not the language of a report.

There is a notable case on this point which obtained a great deal of publicity at the time the decision was handed down since it involved one of those offenses which receive great publicity—a charge under the Mann Act. This act was presented in the House of Representatives by the distinguished Republican floor leader, a Representative from Illinois. He announced his purpose when he introduced the bill, to prohibit transportation in interstate commerce for the white slave traffic. He declared his purpose to be to suppress commercialized vice in interstate commerce, and it was expressly stated that that was the only purpose of that act. But the language of the statute, after the prohibition, contained the phrase, "to become a prostitute or to give herself up to debauchery, or to engage in any other immoral practice." In spite of the fact that the act was known as the White Slave Traffic Act, and that the report clearly described the conditions of commercialized vice sought to be controlled, the court gave the words "any other immoral practice" their ordinary meaning, and refused to consider any legislative history.

I refer to the case of *Caminetti* v. *United States* (242 U. S., at p. 470). The case was decided in 1917. Again we are dealing with congressional reports. The Court said:

Reports to Congress may aid the courts in reaching the true meaning of the Legislature in cases of doubtful interpretation; but, as we have already said—and it has been so often affirmed as to become a recognized rule—when words are free from doubt they must be taken as the final expression of the legislative intent and may not be added to or subtracted from by considerations drawn from titles or designations, names or reports accompanying their introduction, or from any extraneous sources. In other words, the language being plain, and not leading to absurd or wholly impractical consequences, it is the sole evidence of the ultimate legislative intent.

Who can deny that it would be utterly absurd to have the words "the effect may be" mean one thing in one sentence of section 2 (a) and something else in another sentence of the same section? That is an absurdity so great that Members of the Senate who, like myself, sought to clarify the misunderstanding that arose from the country-wide propaganda which followed the Cement decision would do well to vote for the postponement of the consideration of this question.

If consideration is not postponed I shall vote against the report, although S. 1008 comes here because I introduced the original text.

FEDERAL COURTS NOW SAY NONCOLLUSIVE FREIGHT ABSORPTION AND DELIVERED PRICING ARE LEGAL

When I introduced the bill I made it clear and explicit, so that no one could misunderstand, that in my opinion no law in this land had ever condemned the independent, noncollusive adoption of delivered prices in the merchandising of goods, or the absorption of freight. I sought merely to place a statement to that effect in the law of the land, so that the misunderstanding could be cleared away. Now, however, we have a measure which not only does not clear away the misunderstanding, but creates new sources of misunderstanding.

However, I think the effort to secure the enactment of this proposed legislation has not been wholly futile. It will be recalled that this bill was passed by the Senate on June 1, 1949. It passed the House of Representatives on July 7, 1949. Since that time, there has been a great deal of discussion about the matter, all over the United States. Many newspaper articles and magazine stories have been published about the meaning of this language.

Finally, on August 22 of this year, the United States Court of Appeals for the Fourth Circuit, in the case of Bond Crown & Cork Company against Federal Trade Commission, handed down a decision which in my opinion bears out exactly the interpretation I have always placed upon the Federal Trade Commission Act and the Clayton Act. I shall read one or two excerpts from that opinion, and I ask unanimous consent that the entire opinion may be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER (Mr. BALDWIN in the chair). Without objection, it is so ordered.

(See exhibit 1.)

Mr. O'MAHONEY. Mr. President, let me read the following language from that decision:

Innocent explanations are offered as to each of the circumstances relied on by the Commission, and if it were permissible to consider each of the circumstances out of connection with the others, there would be much force in the argument of the petitioners.

That was the argument that the independent use of a practice was not forbidden by the law.

I read further:

When all of the circumstances are considered together, as they must be, however, there can be no question as to their sufficiency to support the findings and conclusions of the Commission. The standardization of product, for example, would be innocent enough by itself—

Mr. President, I ask all Senators to observe with care this language—

but not when taken in connection with standardization of discounts and differentials, publication of prices with agreements not to charge less than a minimum under patent license agreements affecting practically the entire industry, the freight equalization which we have described and such uniformity of prices throughout the industry as to leave no price competition of any sort anywhere. The practice of freight equalization might be all right if used by the manufacturers individually, but not when used in connection with standardization of product, patent control, price publication, and uniformity of discounts and trade practices in such way as to destroy price competition.

Mr. President, I have not the slightest doubt in my mind that freight equalization, standing alone, or delivered prices, standing alone, are in no danger of prosecution either on the part of the Federal Trade Commission or on the part of the Department of Justice.

There are many quotations which I could make; but I do not desire to prolong this discussion unnecessarily. However, I wish to make it clear why this matter became of such great interest to me that I ventured to introduce the proposed legislation which now is before the Senate. There are two primary reasons.

NECESSITY OF FREIGHT ABSORPTION IN WESTERN INDUSTRIES

One of them is that in the West we have a sugar-beet industry. The sugar beets are refined in the West, and the product is sold, sometimes at delivered prices, sometimes by means of freight absorption. I have never hesitated to tell the refiners that so long as they were not engaged in collusive practices, freight absorption and delivered prices were completely legal.

Then, Mr. President, there was discovered in my State a great natural deposit from which sodium carbonate, sodium bicarbonate, and soda ash may be manufactured. A large company wished to invest millions of dollars in the development of that natural deposit, but the company felt that it would be impossible to risk the investment of millions of dollars in the enterprise if freight absorption or delivered prices by themselves were prohibited by law. Mr. Robert D. Pike is the scientist who has been chiefly responsible for the development of the process by which this natural resource can be utilized. I took him before the Capehart committee in November 1948 in order that he might testify with respect to this question. I asked him there, in that public hearing, if it was the intention or desire of his group to enter into any agreements or any other monopolistic practice. He said that it was not the intention. Thereupon I said to him what I say here and what I have said in all these discussions: "So long as you are acting independently and in good faith, so long as you are not making agreements to suppress competition or to restrain trade, you need have no fear."

But, Mr. President, if by adopting this conference report in the form in which it has come to us, including the definition which I have discovered, we should be successful in writing this new definition into the law, we would be opening the door to monopolistic practices and we would be doing precisely what we do not want to do, namely, we would be locking up the natural resources of the West in the hands of monopolists. We would be putting the consumers of the country into the hands of monopolists who do wish to use freight absorption and delivered prices in connection with collusive agreements in restraint of trade.

So, Mr. President, the opportunity is presented to us to let this matter go over until the next session of Congress, and then to work out the matter in the manner in which I am certain the Senate unanimously desires that it should be worked out.

Mr. President, I ask that in addition to the text of the decision of Judge Parker in the Fourth Circuit Court of Appeals in the case of Bond Crown & Cork Co. against Federal Trade Commission, there may be printed in the RECORD at the conclusion of my remarks a letter which I wrote on October 14 to Mr. Pike in respect to the situation which here confronts us and the meaning of the Supreme Court decision.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. O'MAHONEY. So, Mr. President, I express the sincere hope that the motion to postpone consideration will be agreed to, so that we shall not add confusion to the situation existing here in the closing hours of the session of Congress.

EXHIBIT 1

No. 5817—ARMSTRONG CORK COMPANY, A CORPORATION, AND JOSEPH C. FEAGLEY, INDIVIDUALLY AND AS A DIRECTOR OF CROWN MANUFACTURERS ASSOCIATION OF AMERICA, PETITIONERS, AGAINST FEDERAL TRADE COMMISSION, RESPONDENT

ON PETITIONS FOR REVIEW OF AN ORDER OF THE FEDERAL TRADE COMMISSION—ARGUED JUNE 14, 1949. DECIDED AUGUST 22, 1949—BEFORE PARKER, SOPER AND DOBIE, CIRCUIT JUDGES

Roger A. Clapp (Albert E. Donaldson and Hershey, Donaldson, Williams & Stanley on brief) for petitioners in No. 5814; H. Bartow Farr (Willkie, Owen, Farr, Gallagher & Walton; Helmer R. Johnson, and Semmes, Bowen & Semmes on brief) for petitioner in No. 5813; Frank B. Ingersoll (Rex Rowland, and Smith, Buchanan & Ingersoll on brief) for petitioners in No. 5817, and Donovan R. Divet, special attorney, Federal Trade Commission, (W. T. Kelley, general counsel; Walter B. Wooden, associate general counsel, and James W. Cassedy, associate general counsel, Federal Trade Commission, on brief) for respondent.

Chief Judge John J. Parker, circuit judge:

"These are petitions to review and set aside an order of the Federal Trade Commission finding that the petitioners have been parties to a conspiracy and combination in restraint of trade constituting an unfair method of competition in violation of section 5 of the Federal Trade Commission Act (38 Stat. 719, 15 U. S. C. sec. 45) and commanding them to cease and desist from carrying out any "planned common course of action" with respect to certain acts and practices found to be involved in the conspiracy. The petitioners are corporations engaged in manufacturing crown bottle caps, a trade association of these manufacturers and certain individuals holding office either in the corporations or the association. The Commission in its brief filed in this court consents that its order be vacated as to the individual petitioners, and no further attention need be given to them. The manufacturing corporations and the association ask that the order be vacated because not based on sufficient findings and because the findings are not supported by substantial evidence.

"The case was heard before a trial examiner, who filed a report recommending that the Commission find that there had been no conspiracy in restraint of trade or unfair trade practice in violation of the Trade Commission Act and that it dismiss the petition. Exceptions were filed to this report, and the Commission made a complete finding of facts covering every aspect of the case and reached the conclusion that a combination and conspiracy in restraint of trade did exist and that a cease-and-desist order should issue. The findings of the Commission are that the manufacturing petitioners control 85 percent of the business in question, that there is no price competition of any sort among them, but that absolute uniformity of prices and discounts has prevailed since 1938; that, through their association they considered uniform pricing techniques and a uniform contract in the year 1928, and that, although this uniform contract was not adopted, its provisions have been followed by petitioners; that through the association petitioners have worked out a standardization of product so that even in the matter of decoration the product of all petitioners is precisely the same; that in connection with patent licensing agreements the petitioner Crown Cork & Seal Co., which was the largest manufacturer of crown bottle caps, furnished lists of its prices to all the other petitioners for a period of many years and ceased only a short while before the institution of this proceeding; that such license agreements provided that the licensees should not sell at prices lower than those of Crown Cork & Seal Co.; and that all of the manufacturing petitioners follow the uniform practice of equalizing the freight on shipments, with the result that the cost of goods plus freight is the same at any given point anywhere in the United States, no matter from which of petitioners the purchase is made. Upon these facts the Commission found the existence of the conspiracy charged in the following language (thirteenth finding):

" 'The Commission is of the opinion that in the circumstances shown to exist an understanding or agreement under which the respondents acted and still act in concert may be inferred. The intention of the parties participating in the meeting of respondent association, held on July 24, 1928, for all members of the association to sell their products at one and the same price and under identical terms and conditions is clearly evident from the minutes of that meeting. The subsequent use by all such parties of the general pricing plan then formulated, including the schedules of deductions, additions, and differentials, and the adoption of such plan by all of the other respondent manufacturers, with the resulting uniformity in prices, terms, and conditions of sale as among all such manufacturers, indicates just as clearly an intention of all of the parties to continue in effect the original understanding. In the opinion of the Commission, there is a direct connection between this understanding and the admitted efforts of the respondents to standardize their products to such an extent that a prospective purchaser would have no choice in the realm of coloring, lettering, and decorations as between the products of any two manufacturers; and the concurrent use by all of the respondent manufacturers of the freight-equalization plan serving to maintain identical delivered prices for all purchasers at any given destination, adds materially to the combination of circumstances showing a deliberate and concerted effort on the part of the respondents to completely remove effective competition as among the sellers of crown bottle caps and discs used in connection therewith. Considering, in addition, the price-fixing provisions of the various license agreements, all of which exceeded the legitimate rights of the licensors to protect themselves in the enjoyment of the fruits of their inventions, the sum of all the other incidents referred to in the foregoing paragraphs, the Commission has no difficulty in concluding, and therefore finds, that the respondents have in fact entered into and have engaged in and carried out an understanding, agreement, combination, or conspiracy among themselves to restrain and suppress competition in the sale of their products. While the record does not show that each of said respondents has participated in all of the activities relied on to establish said understanding, or agreement, each has acted in concert and cooperation with one or more of the others in doing and carrying out some of the acts and practices herein set forth in furtherance of the understanding or agreement common to them all.'

"We think there can be no question but that this finding supports the order of the Commission and we think it equally clear that it, in turn, is supported by the findings as to evidentiary facts which precede it and by the evidence in the case.

"Crown bottle caps are the closures for bottles used by the brewing and bottling industry. They consist of metal shells enclosing cork discs and have long been substantially identical in construction and dimension. The Crown Cork & Seal Co.,

one of the petitioners, manufactures approximately 50 percent of those produced in this country and the other petitioners approximately 35 percent. In 1925 the trade association was organized and most of the petitioners were members of it. One of the first things that it did was to bring about more complete standardization of product in that, by agreement of the manufacturers, the decoration of the caps was made uniform, so that those sold by all manufacturers were identically the same. Another matter discussed at an early meeting of the association was the technique of arriving at prices with a view of having uniformity throughout the industry in the schedules of deductions, additions, and differentials from base prices. This was to be incorporated in a standard form of contract; and, while the standard form was never adopted, the evidence is that throughout the industry there is as much uniformity in the deductions, additions and differentials allowed from base prices as if it had been adopted. No form of contract of any sort is used, but sales are made informally by correspondence or oral negotiation; and it appears that no written contract is needed, in view of the uniformity that has been attained throughout the industry with respect to matters which a contract would ordinarily embrace within its terms.

"There is no proof of any express agreement to charge uniform base prices; but the evidence shows that since 1938 the prices of all the manufacturing petitioners have been the same. Prior to 1938, there were but few changes, the same price, with minor variations, was charged by all, and, when changes in prices were made, they were made by all at about the same time. In 1933 Crown Cork & Seal granted licenses under patents which it held to most of the other manufacturing petitioners; and in connection with these licenses they agreed not to sell at a less price than that which Crown Cork & Seal established. It is significant that, in connection with these licenses, Crown Cork & Seal furnished a list of its prices to the licensees, who were under agreement not to sell for less. In the case of petitioner Gutman, where mutual licensing followed the adjustment of patent litigation, there was an exchange of prices, although neither party used the patents of the other. Not until 1941, shortly before the institution of the proceeding before the Commission, was this furnishing of prices discontinued. Its continuance over so long a period of time furnishes adequate explanation of the uniformity of prices attained. The Commission has found that, when it was discontinued, it was no longer necessary to maintain uniformity. Certainly, there have been no changes in prices of bottle caps since that time, notwithstanding the fluctuations in the prices of all other commodities. The question which arises with respect to these patent agreements is not whether a patentee may exact an agreement as to prices from a licensee who uses the patent, but whether such agreements under the circumstances here appearing support the charge of conspiracy to destroy competition and fix prices throughout the industry. See *United States* v. *U. S. Gypsum Co.* (333 U. S. 364).

"The freight equalization practice to which reference has been made goes back at least as far as 1921. That practice is to sell the bottle caps f. o. b. the plant of the manufacturer with an agreement that the purchaser shall be credited with the difference between freight actually paid and that which would have been paid if purchase had been made from the nearest manufacturer. This practice has all the vice of the basing-point system in that the purchaser pays the same delivered price, whatever manufacturer he purchases from, and the manufacturer must absorb the freight differential, so that the net selling price which he receives is different for different customers, depending upon their location. The effect of this practice in destroying competition and its importance in establishing the existence of the conspiracy charged is well stated by the Commission in its ninth finding, from which we quote as follows:

"'This uniformity in base prices, together with the concurrent use by all the respondent manufacturers of the freight-equalization plan, inevitably means that a purchaser at any given locality will be required to pay exactly the same delivered price for crown bottle caps regardless of the manufacturer from which he purchases. It is undisputed that since 1938, at least, it has been impossible for any purchaser at any location to obtain crowns from any respondent manufacturer for a less price or on better terms than the prices charged or the terms imposed by any other respondent manufacturer. Even on privately decorated crowns the extra charges made by all of the respondent manufacturers have been the same. * * * Thus every respondent manufacturer is informed at all times of both the prices and the terms of sale quoted and offered by all of the others. In addition to knowledge of the base prices of all of the other respondent manufacturers, each such respondent manufacturer knows that every other respondent manufacturer uses the plan of equalizing freight with the location of the manufacturer nearest the purchaser. It knows, too, that by the use of this plan each will be able to deliver its products to every purchaser at any given destination for exactly the same delivered price as others using the plan, and thus all users of the plan will be able to present to a prospective purchaser a condition of matched prices in which such purchaser is deprived of any choice on the basis of price. * * * In order to produce such matched prices sellers of crowns must, at numerous destinations, accept net receipts for their products varying in amount according to the freight absorbed as a result of the closer proximity to the purchaser of some other seller. Each participant in the use of the plan consciously intends that no attempt be made to exclude any seller of crowns from the natural freight-advantage territory of another, and by the use of the plan invites other sellers to share the available business in his natural market in return for similar treatment for itself in the trade territories of all other participating sellers. The price rigidity existing in the crown bottle cap industry since 1938, and the failure of prices of crown bottle caps to respond in any way to changing conditions of supply and demand are not consistent with the existence of effective competition. The complete standardization of crowns as a result of the admitted efforts made by respondents, and other circumstances showing an overriding desire on the part of the respondents to present to a prospective customer as completely a united front insofar as products, prices, and terms of sale are concerned, indicate the total absence of such competition. When, as in this industry, the price of the seller nearest the purchaser is always accepted by other sellers and there is no bargaining on any basis between buyers and sellers, fundamental requirements of a true competitive market are lacking and prices are not the result of market action in the economic sense, but are mere expressions of an artificial and monopolistic price structure.'

"Innocent explanations are offered as to each of the circumstances relied on by the Commission, and if it were permissible to consider each of the circumstances out of connection with the others, there would be much force in the argument of the petitioners. When all of the circumstances are considered together, as they must be, however, there can be no question as to their sufficiency to support the findings and conclusions of the Commission. The standardization of product, for example, would be innocent enough by itself, but not when taken in connection with standardization of discounts and differentials, publication of prices with agreements not to charge less than a minimum under patent license agreements affecting practically the entire industry, the freight equalization which we have described and such uniformity of prices throughout the industry as to leave no price competition of any sort anywhere. The practice of freight equalization might be all right if used by the manufacturers individually, but not when used in connection with standardization of product, patent control, price publication and uniformity of discounts and trade practices in such way as to destroy price competition. As in the case of most conspiracies to restrain trade and destroy competition, there is no direct evidence of any express agreement to do what the law forbids; but no such evidence is required, nor is the Commission required to accept the denials of those charged with the conspiracy merely because there is no direct evidence to establish it, for it is well settled that 'The essential combination or conspiracy may be found in a course of dealings or other circumstances as well as in any exchange of words' (*Fort Howard Paper Co.* v. *Federal Trade Com'n* (7 Cir. 156 F. 2d 899, 905)). Where, as here, the evidence is sufficient to support the findings of the commission, it is for that body, and not the courts, to say what conclusions are to be drawn from it (*Federal Trade Com'n* v. *Standard Education Society* (302 U. S. 112, 117); *Federal Trade Com'n* v. *Algoma Lumber Co.* (291 U. S. 67, 73)).

"And the rule just stated is no different, as some of the petitioners seem to think, because the trial examiner reached a conclusion different from that of the Commission (*N. L. R. B.* v. *Laister Kauffmann A. Corp.* (8 Cir. 144 F. 2d 9, 16–17)). It is the Commission, not the trial examiner, that is charged with ultimate responsibility for finding the facts and it is the Commission's findings and order that we are authorized to review under the express limitation that 'the findings of the Commission as to the facts if supported by evidence shall be conclusive' (15 U. S. C. 45 (d)). In point is *Beard-Laney Co.* v. *United States* (73 F. Supp. 27, 33). In that case, it appeared that the order of a hearing division of the Interstate Commerce Commission had been reversed on rehearing and it was argued that the usual rules for review of orders of the Commission should not be applied for that reason. In answering this contention, the special statutory court of three judges said: 'The rules to be applied in reviewing the order of the Commission are not different because that order resulted from a reversal of a prior decision of the hearing division upon a petition for rehearing. The fact that a rehearing was granted shows that the questions involved were carefully considered and the ultimate decision of the division, which received the approval of the Commission, was the final and definitive action of the Commission, which is what we are authorized to review; and it is to be reviewed in the same way and under the same limitations as other reviewable orders. We may not substitute our judgment for that of the Commission because upon a rehearing and fuller consideration of the facts it has arrived at a different conclusion from that which its hearing division had first expressed (*Lang Transp. Co.* v. *United States, D. C.* (75 F. Supp. 915, 925))."

"There has been a great deal of argument with regard to the practice of freight equalization. It should be noted in this connection, however, that the question in this case is, not whether such practice may be enjoined as constituting of itself an unfair trade practice, but whether it may be considered along with the other facts and circumstances to which we have adverted as tending to establish the conspiracy and combination in restraint of trade, which is the only charge of the complaint. We think that it was properly considered for that purpose (*Federal*

Trade Com'n v. *Cement Institute* (333 U. S. 683); *Triangle Conduit & Cable Co.* v. *Federal Trade Com'n* (7 Cir. 168 F. 2d 175); *Milk & Ice Cream Can Institute* v. *Federal Trade Com'n* 152 F. 2d 478)). As was well said by Judge Major of a similar freight equalization plan in the case last cited:

" 'It is argued, perhaps correctly, that such a freight system had long been employed by industry so that members thereof might deliver their product at the same price. In fact, the Commission recognizes that this freight equalization plan was used by petitioners prior to the organization of the Institute. Such being the case, the fact still remains that it was employed by petitioners for the purpose of fixing the delivered price of their product and by such use price competition was eliminated or at any rate seriously impaired. On the face of the situation, it taxes our credulity of belief, as argued, that petitioners employed this system without any agreement or plan among themselves.'

"Whether viewed as an unfair trade practice in itself, or as evidence of the existence of a conspiracy, we see no practical distinction between the freight equalization practice here involved and the multiple-basing-point system before the Supreme Court in *Federal Trade Commission* v. *Cement Institute*, supra (333 U. S. 684). Both result in identity of prices and diversity of net returns. In speaking of the single-basing point system, which had been condemned in *Corn Products Co.* v. *Federal Trade Com'n* (324 U. S. 726), and *Federal Trade Com'n* v. *Staley Co.* (324 U. S. 746), the Supreme Court, in the *Cement Institute* case, pointed out the results that flow from that system, saying: "One is that the 'delivered prices' of all producers in every locality where deliveries are made are always the same regardless of the producers' different freight costs. Another is that sales made by a nonbase mill for delivery at different localities result in net receipts to the seller which vary in amounts equivalent to the 'phantom freight' included in, or the 'freight absorption' taken from the 'delivered price'." The court then pointed out that "the multiple and single systems function in the same general manner and produce the same consequences—identity of prices and diversity of net returns. Such differences as there are in matters here pertinent are therefore differences of degree only." The same is true of the freight equalization practice here under consideration.

"It is argued that the case here is distinguishable from the *Cement Institute* case because no 'phantom freight' is involved; but there is involved freight absorption, resulting in equal delivered prices by all manufacturers selling in a given locality and unequal net returns to the manufacturers from sales to customers in different localities. So far as the questions before us are concerned, there can be no difference between phantom freight and freight absorption. (See 333 U. S. at 725.) Another argument is that the case here is distinguishable because there is no prohibition of the purchaser's taking delivery at the point of manufacture and thus eliminating freight altogether; but, so far as appears, no one has ever availed himself of this right, and the distinction does not seem to be one of any practical value. We need not decide, however, whether the freight-equalization practice here involved constitutes of itself an unfair trade practice or whether it may be condemned as systematic price discrimination in violation of section 2 of the Clayton Act, as amended by the Robinson-Patman Act (49 Stat. 1526, 15 U. S. C. 13), as was held of the multiple-basing-point system in the *Cement Institute* case, as those questions are not before us. The practice unquestionably constitutes evidence to be considered, along with other facts and circumstances, as tending to establish the conspiracy charged; and that was the only purpose for which it was considered by the Commission.

"We conclude the discussion on the sufficiency of the evidence by adverting again to the indisputable fact that through the business practices followed by petitioners it has resulted that in an industry of which they control 85 percent there has been no price change in 10 years and absolutely no price competition whatever. The product has been so standardized that there is no choice of any sort between the products of different producers, and a purchaser anywhere in the country can purchase at the same price including freight from any producer. It is argued that all this is the result of the free play of economic forces, but the Commission did not think so; and this is just the sort of question that Congress intended the Commission to decide. As was said by the Supreme Court of a similar argument in the *Cement Institute* case:

" 'The Commission did not adopt the views of the economists produced by the respondents. It decided that even though competition might tend to drive the price of standardized products to a uniform level, such a tendency alone could not account for the almost perfect identity in prices, discounts, and cement containers which had prevailed for so long a time in the cement industry. The Commission held that the uniformity and absence of competition in the industry were the results of understandings or agreements entered into or carried out by concert of the institute and the other respondents. It may possibly be true, as respondents' economists testified, that cement producers will, without agreement express or implied, and without understanding explicit or tacit, always and at all times (for such has been substantially the case here) charge for their cement precisely, to the fractional part of a penny, the price their competitors charge. Certainly it runs counter to what many people have believed, namely, that without agreement, prices will vary—that the desire to sell will sometimes be so strong that a seller will be willing to lower his prices and take his chances. We therefore hold that the Commission was not compelled to accept the views of respondents' economist witnesses that active competition was bound to produce uniform cement prices.'

"Petitioners contend that even though the order of the Commission be upheld, the fifth paragraph, which relates to the practice of freight equalization, should be stricken therefrom on the ground that it will interfere with the independent use of the practice of freight equalization by petitioners individually. The prohibitions of paragraph 5 have application, however, only to acts done in carrying out a 'planned common course of action, understanding, agreement, combination, or conspiracy.' We dealt with the question here involved in *American Chain & Cable Co.* v. *Federal Trade Com'n* (4 Cir. 139 F. 2d 622), where petitioner had suggested to the Commission, without success, that it clarify a similar order by inserting a declaration that nothing therein was intended to prevent a manufacturer from independently continuing to engage in a given course of action. In affirming the action of the Commission, this court, speaking through Judge Soper, after pointing out the history of the present form of the order and the fears of arbitrary action entertained by the petitioner, said:

" 'It does not seem to us that the order needs further clarification. It is of course true that a cease and desist order must be certain and unambiguous in its prohibitive terms because businessmen must operate under it at their peril. * * * But, there can be no doubt that to sustain a charge of violation of the order in this case it must be shown that the prohibited acts have been performed as the result of an agreement or conspiracy, or as the result of a common course of action, that has been agreed upon or planned between two or more persons. If, as the result of such agreement or plan, the petitioners continue to cooperate in a common course of action which has been found to violate the statute, they make themselves liable to the prescribed penalties; and they have no just cause for complaint if in appraising the evidence in any case the triers of fact seek to determine whether there is any relation or connection between their past illegal acts and the conduct under examination. If such a relation or connection is found it may properly be condemned as a continuance of an unlawful conspiracy. Of course, the influence of changed business conditions must be taken into account in reaching a decision; but there is no reason to believe that the Federal Trade Commission will fail in its duty in this respect or that the courts will hesitate to modify or reverse an order that is based on inferences not supported by the evidence.'

"As we have already indicated, the Commission consents that its order be modified so as to eliminate the individual petitioners. We think it should be modified, also, to eliminate its application to cork discs. There is no sufficient evidence of any conspiracy or combination in restraint of trade with respect to cork discs, and no finding sufficient to support the application of the order to dealings therein. The evidence discloses that most of the manufacturers of crown bottle caps manufacture the cork discs which they use; and the inclusion of the latter commodity in the order does not seem to have any practical significance.

"The order of the Commission will be modified by striking therefrom the names of L. C. McAuliffe, E. J. Costa, Joseph C. Feagley, and Benno Cohn and by striking the words "or cork discs" from the main body of the order and from the paragraph No. 1; and, as so modified, the order of the Commission will be affirmed and enforced.

"Modified and as so modified affirmed and enforced."

EXHIBIT 2

UNITED STATES SENATE,
Washington, D. C., October 14, 1949.

Mr. ROBERT D. PIKE,
Gurley Building,
Stamford, Conn.

DEAR MR. PIKE: Because of your deep concern with the possible results of the conference committee amendments upon the enactment of my bill to clarify the legality of the individual use of delivered pricing and freight absorption, I feel it would be helpful again to review the legislation in the light of its purpose.

This is desirable in order to avoid the confusing technical criticisms which both proponents and opponents of the measure are raising in the heated atmosphere of the closing days of Congress. At this time particularly, we need to exercise both good will and intelligence as a means to guide our actions and avoid the pitfalls of the technical legalistic approach which through the medium of unsupported assertions concerning possible judicial constructions of the language of the Clayton Act is again being used to becloud the issue.

You will recall that when you appeared before the Capehart Committee on November 30, 1948, I stated to you publicly, for the record, that any delivered pricing system independently used in the Green River trona operations, which would give due allowance to the geographical situation of your buyers, would not and could not be regarded as a violation of law. There has never been any law or decision which held the contrary, nor has a complaint ever been brought by the Federal Trade Commission involving freight absorption and delivered prices which did not also involve collusion or bad faith. However, at that time, and to an even greater

degree after the split decision of the Supreme Court in the *Rigid Steel Conduit* case, businessmen and their legal advisers felt that the point was not sufficiently certain to justify business decisions involving large investments of capital.

My bill, as introduced in the Senate, was offered to resolve that uncertainty immediately after the Rigid Steel Conduit decision. Its purpose, overwhelmingly agreed to, was, first to preserve the vigor of the antitrust laws, and secondly, to give certainty to the interpretation of the law as expressed by the Federal Trade Commission and the Department of Justice that freight absorption and delivered pricing are not per se illegal. The bill which I introduced and the bill as reported by the Judiciary Committee of the House attained those objectives and each substantive section served to assure businessmen that the Federal Trade Commission Act, the Clayton Act, and the judicial interpretations of the words of general meaning in those acts would continue to have the same meaning they have had for more than 20 years. In other words, the law was to remain unchanged, but the uncertainty stemming from dicta in recent decisions was to be avoided.

If, however, Congress is unable for any reason to agree upon the bill as amended in the conference, I am confident that the decisions of the Federal courts and the course of action of both the Federal Trade Commission and the Department of Justice will continue to support the view that freight absorption and delivered prices are not in themselves illegal.

This confidence is immeasurably strengthened by a decision of the United States Court of Appeals for the Fourth Circuit, announced on August 22, 1949, in the case of *Bond Crown & Cork Co.* v. *Federal Trade Commission*. This decision has received none of the widespread publicity accorded to the dicta of the *Cement* and *Rigid Steel Conduit* cases. It has not been broadcast by any of those who would have sought to convince producers that the *Cement* and *Rigid Steel Conduit* cases now require f. o. b. pricing or uniform mill net pricing. The decision is so important, however, that it ought to be known to you and your associates as well as to all others who in good faith desire to absorb freight or establish delivered prices without violation of the antitrust laws.

The opinion in this case was written by Chief Judge John J. Parker. It states:

"There has been a great deal of argument with regard to the practice of freight equalization. It should be noted in this connection, however, that the question in this case is, not whether such practice may be enjoined as constituting of itself an unfair trade practice, but whether it may be considered along with the other facts and circumstances to which we have adverted as tending to establish the conspiracy and combination in restraint of trade, which is the only charge of the complaint. We think it was properly considered for that purpose" (p. 12).

"The practice of freight equalization might be all right if used by the manufacturers individually, but not when used in connection with standardization of product, patent control, price publication, and uniformity of discounts and trade practices in such way as to destroy price competition" (p. 10).

"Petitioners contend that even though the order of the Commission be upheld, the fifth paragraph, which relates to the practice of freight equalization should be stricken therefrom on the ground that it will interfere with the independent use of the practice of freight equalization by petitioners individually. The prohibitions of paragraph 5 have application, however, only to acts done in carrying out a "planned common course of action, understanding, agreement, combination or conspiracy" (pp. 15–16).

It is true, of course, that the second quotation above is, strictly speaking, a dictum, but if the *Cement* and *Rigid Steel Conduit* cases really had the legal effect attributed to them in the publicity which followed their publication in 1948, this language could not possibly have been used by the court, nor indeed, would the court have denied the striking of the fifth paragraph of the order above referred to in the manner in which it was done.

In other words, the United States Court of Appeals for the Fourth Circuit on August 22, 1949, after the Supreme Court had acted i the *Cement* and *Rigid Steel Conduit* cases, and after I had introduced S. 1974, said just what I said to you on November 30, 1948, that where freight absorption and delivered prices do not involve conspiracy, combination or practices intended to restrain trade and suppress competition, the Federal Trade Commission can issue no order or complaint because they are not a violation of law.

With every good wish.

Sincerely yours,

JOSEPH C. O'MAHONEY.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Illinois [Mr. DOUGLAS] to postpone further consideration of the conference report to January 20, 1950.

Mr. SALTONSTALL. Mr. President, I should like to ask the Senator from Maryland whether, in his opinion, it would be advisable to suggest the absence of a quorum before the motion is acted upon? So far as I know, we on this side of the aisle think it unnecessary.

Mr. O'CONOR. I know of no reason why it would be necessary, I may say to the Senator from Massachusetts.

The PRESIDING OFFICER. The question is on the motion of the Senator from Illinois [Mr. DOUGLAS].

The motion was agreed to.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Swanson, one of its reading clerks, anounced that the House had passed, without amendment, the following bills of the Senate:

S. 509. An act to provide for the advancement of commissioned Warrant Officer Chester A. Davis, United States Marine Corps (retired) to the rank of lieutenant colonel on the retired list;

S. 1560. An act to authorize the appointment of Col. Kenneth D. Nichols, O–17498, professor of the United States Military Academy, in the permanent grade of colonel, Regular Army, and for other purposes; and

S. 1660. An act providing for the conveyance to the Franciscan Fathers of California of approximately 40 acres of land located on the Hunter-Liggett Military Reservation, Monterey County, Calif.

The message also announced that the House had agreed to the amendments of the Senate to the bill (H. R. 6303) to authorize certain construction at military and naval installations, and for other purposes.

The message further announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1267) to promote the national defense by authorizing a unitary plan for construction of transsonic and supersonic wind-tunnel facilities and the establishment of an Air Engineering Development Center.

The message also announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 4146) making appropriations for the National Security Council, the National Security Resources Board, and for military functions administered by the National Military Establishment for the fiscal year ending June 30, 1950, and for other purposes, and that the House had agreed to the Senate amendment numbered 99 to the bill and concurred therein with an amendment, in which it requested the concurrence of the Senate.

ENROLLED BILLS AND JOINT RESOLUTIONS SIGNED

The message further announced that the Speaker had affixed his signature to the following enrolled bills and joint resolutions, and they were signed by the Vice President:

S. 443. An act to authorize the construction and equipment of a radio laboratory building for the National Bureau of Standards, Department of Commerce;

S. 939. An act to remove certain lands from the operation of Public Law 545, Seventy-seventh Congress;

S. 1385. An act providing that excess-land provisions of the Federal reclamation laws shall not apply to certain lands that will receive a supplemental water supply from the San Luis project, Colorado;

S. 1829. An act to authorize the Secretary of the Interior to transfer to the Crow Indian Tribe of Montana the title to certain buffalo;

S. 2316. An act to authorize the construction and equipment of a guided-missile research laboratory building for the National Bureau of Standards, Department of Commerce;

S. 2360. An act to amend the Federal Airport Act so as to authorize appropriations for projects in the Virgin Islands;

H. R. 212. An act to extend to the Territory of Alaska the benefits of certain acts of Congress, and for other purposes;

H. R. 1370. An act to authorize the appointment of three additional judges of the municipal court for the District of Columbia and to prescribe the qualifications of appointees to the municipal court and the municipal court of appeals, and for other purposes;

H. R. 2186 An act providing for a location survey for a railroad connecting the existing railroad system serving the United States and Canada and terminating at Prince George, British Columbia, Canada, with the railroad system serving Alaska and terminating at Fairbanks, Alaska;

H. R. 2369. An act to authorize an appropriation to complete the International Peace Garden, North Dakota;

H. R. 2517. An act directing the Secretary of the Interior to convey certain land to Palm Beach County, Fla.;

H. R. 3155. An act to amend Public Law 885, Eightieth Congress, chapter 813, second session;

H. R. 3300. An act for the relief of Mary Thomas Schiek;

H. R. 3718. An act for the relief of George Seeman Jensen;

H. R. 3816. An act for the relief of Alexis Leger;

H. R. 4059. An act to clarify exemption from taxation of certain property of the Na-

tional Society of the Sons of the American Revolution;

H. R. 4090. An act to extend the benefits of section 23 of the Bankhead-Jones Act to Puerto Rico;

H. R. 4749. An act to remove the requirement of residence in the District of Columbia for membership on the Commission on Mental Health;

H. R. 4789. An act to provide for the issuance of a license to practice chiropractic in the District of Columbia to Abraham J. Ehrlich;

H. R. 5105. An act to authorize the sale of certain allotted inherited land on the Pine Ridge Reservation, S. Dak.;

H. R. 5170. An act to further the policy enunciated in the Historic Sites Act (49 Stat. 666) and to facilitate public participation in the preservation of sites, buildings, and objects of national significance or interest and providing a national trust for historic preservation;

H. R. 5305. An act to increase the retired pay of certain members of the former Lighthouse Service;

H. R. 5319. An act granting a renewal of patent No. 40,029, relating to the badge of the Holy Name Society;

H. R. 5489. An act to ratify and confirm act 251 of the Session Laws of Hawaii, 1949;

H. R. 5674. An act to extend the time for the collection of tolls to amortize the cost, including reasonable interest and financing cost, of the construction of a bridge across the Missouri River at Brownville, Nebr.;

H. R. 6185. An act to amend the Federal Credit Union Act;

H. R. 6213. An act to authorize reimbursement to the appropriations of the Bureau of Narcotics of moneys expended for the purchase of narcotics;

H. R. 6259. An act to provide for the installation of a carillon in the Arlington Memorial Amphitheater, Arlington National Cemetery, Fort Myer, Va., in memory of World War II dead;

H. J. Res. 230. Joint resolution authorizing the Secretary of the Navy to construct and the President of the United States to present to the people of St. Lawrence, Newfoundland, on behalf of the people of the United States, a hospital or dispensary for heroic services to the officers and men of the United States Navy;

H. J. Res. 302. Joint resolution to amend the act of June 30, 1949, which increased the compensation of certain employees of the District of Columbia, so as to clarify the provisions relating to retired policemen and firemen;

H. J. Res. 337. Joint resolution extending the time for payment of the sums authorized for the relief of the owners of certain properties abutting Eastern Avenue in the District of Columbia;

H. J. Res. 340. Joint resolution to clarify the status of the Architect of the Capitol under the Federal Property and Administrative Services Act of 1949; and

H. J. Res. 353. Joint resolution authorizing the Commission on Renovation of the Executive Mansion to preserve or dispose of material removed from the Executive Mansion during the period of renovation.

NOMINATION OF MON C. WALLGREN TO BE MEMBER OF FEDERAL POWER COMMISSION

Mr. JOHNSON of Texas. Mr. President, I am very happy to announce to the Senate that, a few moments ago, the Senate Committee on Interstate and Foreign Commerce unanimously approved the President's nomination of Mon C. Wallgren to be a member of the Federal Power Commission. There were 10 members of the committee present or represented by proxy, and there were 10 votes cast to report favorably the nomination to the Senate. I now submit the report to the Senate.

The PRESIDING OFFICER. Without objection, and as in executive session, the report will be received, the nomination will be placed on the Executive Calendar.

Mr. JOHNSON of Texas. Mr. President, this, in my opinion, is a fine appointment, which is in the public interest.

The nominee has been honored, frequently and highly, by the people of the State of Washington. He has served in the House of Representatives, he has served in the Senate, and he has served as Governor of his State.

Never during his long tenure in public office has Mon Wallgren worn the brand of the private power lobby. Instead, the great Bonneville and Grand Coulee projects of the Northwest stand as a monument to his forceful and tireless leadership here in Congress.

Contrary to the propaganda that was spread over the country during the recent Senate consideration of another nominee to the Federal Power Commission, Mon Wallgren's appointment and his approval by the Interstate Committee is a final and definite answer to the "wolf-cries" that the power lobby would take over the Commission if Leland Olds were not confirmed.

The nominee's long and rich experience as a legislator in the House and Senate, and his service as an executive in the office of Governor, have taught him where the writing of law ends and where administration of the law begins. I am sure that Mon Wallgren understands the pitfalls and the folly of one-man law—and we shall have no more of that with Mon Wallgren on the Commission.

I am sure also, because of what I know of the nominee, that with Mon Wallgren on the Commission the era of backbiting and gossip, the era of fear and intimidation, the era of selfish power-seeking will come to an end. Mon Wallgren will have the respect of his colleagues and his staff, and I am sure he will return that respect in full measure.

I cannot speak for other Senators, but insofar as the junior Senator from Texas is concerned, I wish to congratulate the President for making the appointment. Mon Wallgren will serve the public interest well.

If anyone wishes to force competitive bidding for securities of natural-gas companies, that is all right with me. I am introducing a bill to bring this about. if anyone wishes to extend Federal jurisdiction over production and gathering of natural gas. I have no objections to the case for such extension being presented fairly and properly to the Congress, where it can be decided on merit.

I do object—and the Senate, by its vote last week, objects—to such matters being settled outside the halls of Congress by ambitious, designing men who seek to take the legislative powers into their own hands. I do not believe Mon Wallgren is such a man.

It was my privilege to sit as a member of the Armed Services Committee earlier this year when hearings were held on Governor Wallgren's nomination to the National Security Resources Board. While he was not approved for that position, objection were based almost entirely on his lack of a military background to cope with the many complex security questions presented to that agency.

I am confident Mon Wallgren will be an excellent member of the Federal Power Commission. I hope that the Senators will give their advice and consent promptly to this nomination.

LEAVE OF ABSENCE

Mr. MARTIN asked and obtained consent to be absent from the Senate for the remainder of the day.

TRANSSONIC AND SUPERSONIC WIND TUNNEL FACILITIES—CONFERENCE REPORT

Mr. JOHNSON of Texas. Mr. President, I submit the conference report on Senate bill 1267, the bill to promote the national defense by authorizing a unitary plan for construction of transsonic and supersonic wind tunnel facilities and the establishment of an Air Engineering Development Center. I ask unanimous consent for its present consideration.

The PRESIDING OFFICER. The report will be read.

The report was read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1267) to promote the national defense by authorizing a unitary plan for construction of transsonic and supersonic wind-tunnel facilities and the establishment of an Air Engineering Development Center, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendments of the House numbered 1, 2, 3, 4, 5, 8, and 9, and agree to the same.

Amendment numbered 6: That the Senate recede from its disagreement to the amendment of the House numbered 6, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the House amendment insert the following: "after consultation with the Committees on Armed Services of both Houses of the Congress,"; and the House agree to the same.

Amendment numbered 7: That the Senate recede from its disagreement to the amendment of the House numbered 7, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the House amendment insert the following:

"SEC. 103. (a) The Committee is hereby authorized to expand the facilities at its existing laboratories by the construction of additional supersonic wind tunnels, including buildings, equipment, and accessory construction, and by the acquisition of land and installation of utilities.

"(b) There is hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this section, but not to exceed $136,000,000.

"(c) The facilities authorized by this section shall be operated and staffed by the Committee but shall be available primarily to industry for testing experimental models in connection with the development of aircraft and missiles. Such tests shall be scheduled and conducted in accordance with industry's requirements and allocation of laboratory time shall be made in accordance

with the public interest, with proper emphasis upon the requirements of each military service and due consideration of civilian needs."

And the House agree to the same.

RICHARD B. RUSSELL,
LYNDON B. JOHNSON,
CHAN GURNEY,
WILLIAM F. KNOWLAND,
Managers on the Part of the Senate.

CARL T. DURHAM,
LANSDALE G. SASSCER,
O. CLARK FISHER,
DEWEY SHORT,
LESLIE C. ARENDS,
Managers on the Part of the House.

The PRESIDING OFFICER. Is there objection to the present consideration of the report?

Mr. SALTONSTALL. Mr. President, reserving the right to object—and I shall not object, because I am in favor of the report—will the Senator who is in charge of the report be willing to explain it briefly?

Mr. JOHNSON of Texas. Mr. President, as the bill passed the Senate, $150,000,000 was authorized for the National Advisory Committee for Aeronautics. The House reduced that figure. The conference report agrees on $136,000,000, or $14,000,000 less than the amount which was in the bill when it passed the Senate. For the Air Engineering Development Center the Senate bill authorized $150,000,000. The House reduced it to $100,000,000, and the Senate conferees accepted the House figures. The Senate bill provided $4,440,000 for wind tunnels to be constructed at various universities, with a limitation to 13. The House removed the limitation, increased the figure to $10,000,000, and the Senate accepted the House proposal. The net result, I may say to the distinguished and able Senator from Massachusetts, is that the bill now authorizes approximately $60,000,000 less than the Senate bill authorized, but the Senate conferees thought we had better take that since it was a matter of taking that or nothing.

Mr. SALTONSTALL. Under the report a larger number of universities are permitted to engage in the program. Is that correct?

Mr. JOHNSON of Texas. That is correct. There is no limitation.

Mr. SALTONSTALL. And there is placed entirely in the scientific board the choosing of the universities. Is that correct?

Mr. JOHNSON of Texas. Dr. Compton is the head of it.

Mr. HILL. Mr. President, if the Senator will yield, I inquire how much is the over-all amount reduced?

Mr. JOHNSON of Texas. Approximately $60,000,000. That is satisfactory, I may say, to all the agencies concerned.

Mr. HILL. I thank the Senator.

Mr. JOHNSON of Texas. Mr. President, I ask unanimous consent to place in the RECORD at this point a statement commenting on the details and necessity of the measure.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT BY MR. JOHNSON OF TEXAS

The Senate bill provided authorization for NACA to construct small supersonic wind tunnels at 13 educational institutions at a cost of not to exceed $4,440,000. The House amended this provision to authorize $10,000,000 for this purpose, and removed the limit on the number of wind tunnels. The Senate receded to the House on this amendment.

The Senate authorized $150,000,000 for the construction of supersonic wind tunnels at the three NACA laboratories. The House amended this section to authorize $60,000,000 for the construction of four supersonic wind tunnels of a specific size at NACA laboratories. The conferees agreed to authorize $136,000,000 for the construction of wind tunnels at NACA laboratories, the type and size to be determined by the technical experts of NACA.

With regard to title II, the Senate bill provided authorization for $150,000,000 for the Department of the Air Force to establish an Air Engineering Development Center which would include all the facilities for the research and testing of supersonic aircraft. The House reduced the amount authorized to $100,000,000 and the Senate receded to the House amendment. The amount authorized by the House is sufficient to provide the initial installations, and if more funds are required to complete the installations Congress will have the opportunity to review the request in the light of future needs.

Mr. President, as the Senators know, we have some experimental airplanes that will fly 1,000 miles an hour; we have others with a 10,000-mile nonstop flying range.

This is all very good. Such facts make nice headlines. But the simple truth of the matter is that none of our present aircraft are good enough. We are playing a cruel joke on ourselves and on the public when we pretend that we are the only people on earth who can build 1,000-mile-an-hour airplanes. Other nations can build better planes and we have reason to believe that other nations are already building better planes.

The era of subsonic military aircraft—planes that fly slower than the speed of sound—is at an end. If ever the fate of the world is again decided by aerial conflict, the aircraft involved will fly at supersonic speeds—faster than the speed of sound. Scientifically, though, we are mere babes in the supersonic wilds. We have only learned how much we have to learn.

Without adequate wind-tunnel research facilities, we can learn nothing more about this strange new world of supersonic flight. Our security will be tied to planes as obsolete as the model T.

The air battles of tomorrow will be decided in the wind-tunnels of today.

We are whistling in the dark if we pretend we can build an adequate air force by adding new gadgets and new tinsel to aircraft models that were barely good enough in World War II.

Our present-day aircraft is becoming obsolete.

Our research facilities already are obsolete.

We simply must have better planes. To have those planes, we must adopt this report and provide our military and civilian technicians with the research facilities that are desperately needed to develop better planes.

The PRESIDING OFFICER. Is there objection to the present consideration of the report?

There being no objection, the conference report was considered and agreed to.

Mr. JOHNSON of Texas. Mr. President, I want to say to the distinguished Senator from Tennessee [Mr. MCKELLAR], I am hopeful, before the session adjourns, that his committee may have a budget estimate and provide an appropriation with which to start the program. The junior Senator from Texas is convinced by the testimony offered by Dr. Compton, the secretary for the Air Forces, Mr. Symington, and other distinguished men in this field, that immediate action is required.

Mr. MCKELLAR. Mr. President, I may say to the Senator that yesterday the Appropriations Committee authorized me to offer an amendment, the purpose of which would be to place in the bill such an appropriation as was requested by the Department when its budget estimate was sent in. I am told a budget estimate will probably be sent in within the next hour or two, providing $6,000,000 cash and $24,000,000 in contract authorizations. When that is received, I shall offer the amendment to the appropriation bill. I hope it will come in.

Mr. JOHNSON of Texas. I commend the Senator from Tennessee [Mr. MCKELLAR]. No Member of the Senate has been more diligent in forwarding this legislation than has the Senator from Tennessee.

Mr. MCKELLAR. I thank the Senator.

CLASSIFICATION OF POSITIONS AND RATES OF COMPENSATION OF CERTAIN FEDERAL EMPLOYEES — CONFERENCE REPORT

The PRESIDING OFFICER. The Senator from Oregon [Mr. MORSE] has the floor.

Mr. JOHNSTON of South Carolina. Mr. President, will the Senator from Oregon yield?

The PRESIDING OFFICER. Does the Senator from Oregon yield to the Senator from South Carolina?

Mr. MORSE. I yield.

Mr. JOHNSTON of South Carolina. Mr. President, I submit the conference report on House bill 5931, the Classification Act of 1949. I ask unanimous consent for its present consideration.

The PRESIDING OFFICER. The report will be read.

The report was read.

(For conference report, see pp. 14809–14816 of House proceedings of Oct. 17, 1949.)

The PRESIDING OFFICER. Is there objection to the present consideration of the report?

Mr. SALTONSTALL. Mr. President, reserving the right to object, I inquire whether this is a unanimous report? Was the report signed by all the conferees?

Mr. JOHNSTON of South Carolina. It is not a unanimous report. The Senator from North Dakota [Mr. LANGER] did not sign it. The amount provided was not sufficiently high to suit him. But he does not oppose the passage of the bill.

Mr. SALTONSTALL. I shall not object to the report. I hope, however, the Senator will explain it briefly.

Mr. JOHNSTON of South Carolina. Mr. President, under the conference report the additional expenditure will be $124,340,000, which is $28,000,000 less than the bill called for which was passed by the Senate. The bill as passed by the Senate would have cost $152,350,000. If there are any particular questions, I shall be glad to answer them,

but of course it is a reclassification bill, and there are a great many details in it, as Senators can well appreciate.

Mr. SALTONSTALL. Mr. President, will the Senator yield?

Mr. JOHNSTON of South Carolina. I yield.

Mr. SALTONSTALL. Does the Senator believe the bill embraced in the conference report is a fair bill, considering the entire subject matter?

Mr. JOHNSTON of South Carolina. I believe the five conferees who signed the report thought it was the best bill they could get, and that it is reasonable in every way.

Mr. SALTONSTALL. How does it compare with the amounts in the bill passed by the Senate, and the amounts in the bill as passed by the House?

Mr. JOHNSTON of South Carolina. As I stated a moment ago, it is $28,000,000 less than the amount contained in the bill which passed the Senate. The House bill, as the Senator will recall, called for an expenditure of $100,500,000. It is therefore approximately between the amounts approved by the two Houses.

The PRESIDING OFFICER. Is there objection to the present consideration of the report?

There being no objection, the report was considered and agreed to.

ADDITIONAL BENEFITS FOR CERTAIN POSTMASTERS, OFFICERS, AND EMPLOYEES OF THE POSTAL SERVICE—CONFERENCE REPORT

Mr. JOHNSTON of South Carolina. Mr. President, I submit the conference report on House bill 4495 to provide postal employees' benefits. I ask unanimous consent for the present consideration of the report.

The PRESIDING OFFICER. The report will be read.

The report was read.

(For conference report, see p. 14807 of House proceedings of Oct. 17, 1949.)

The PRESIDING OFFICER. Is there objection to the present consideration of the report?

There being no objection, the Senate proceeded to consider the report.

Mr. JOHNSTON of South Carolina. The conference report provides a flat increase for each individual of approximately $120 more. The bill passed by the Senate provided $100. The House bill called for $150 increase.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The report was agreed to.

INCREASE IN EQUIPMENT MAINTENANCE ALLOWANCE TO RURAL CARRIERS

The Chair laid before the Senate the amendments of the House of Representatives to the bill (S. 1232) to increase the equipment maintenance allowance payable to rural carriers, which were to strike out all after the enacting clause and insert:

That subsection (e) of section 17 of the act of July 6, 1945, as amended (Public Law 134, 79th Cong.), is amended to read as follows:

"(e) In addition to the salaries provided in this section, each carrier in the rural delivery service shall be paid for equipment maintenance a sum equal to 8 cents per mile per day for each mile or major fraction of a mile scheduled. Payments for equipment and maintenance as provided herein shall be at the same periods and in the same manner as payments for regular compensation to rural carriers."

SEC. 2. The amendment made by this act shall take effect on the first day of the first calendar month beginning after the date of enactment of this act.

Amend the title so as to read: "An act to increase the allowance for equipment maintenance of rural carriers by 1 cent per mile per day for each scheduled mile or major fraction thereof."

The PRESIDING OFFICER. The question is on agreeing to the amendments of the House of Representatives.

Mr. SALTONSTALL. Mr. President, will the Senator from South Carolina please explain the bill?

Mr. JOHNSTON of South Carolina. Mr. President, this bill, as it passed the Senate, would pay rural carriers 9 cents a mile, or a minimum of $3.50 a day. The House struck out the $3.50 minimum allowance and reduced the mileage allowance from 9 cents to 8 cents a mile.

Mr. SALTONSTALL. What is provided in the present law?

Mr. JOHNSTON of South Carolina. The present law provides 7 cents a mile. The amendment increases it 1 cent a mile in an endeavor to offset the increased cost of operating automobiles.

The PRESIDING OFFICER. The question is on agreeing to the amendments of the House.

The amendments were agreed to.

PROMOTIONS FOR TEMPORARY EMPLOYEES OF MAIL EQUIPMENT SHOPS

The VICE PRESIDENT laid before the Senate the amendments of the House of Representatives to the bill (S. 1825) to amend the Postal Pay Act of 1945, approved July 6, 1945, so as to provide promotions for temporary employees of the mail equipment shops, which were, on page 1, to strike out lines 9 and 10, and on page 2 strike out line 1 and insert "(f) Each temporary employee in the mail equipment shops paid on an annual basis shall be paid at the rate of pay of the lowest grade provided for a regular employee in the same type of position in which such temporary employee is employed, and shall,"; and on page 2, to strike out lines 22 and 23, inclusive, and insert "to the rate of pay of the second grade provided for a regular employee in the same type of position in which such temporary employee is employed."

Mr. JOHNSTON of South Carolina. Mr. President, I move that the Senate concur in the amendments of the House.

Mr. SALTONSTALL. Mr. President, will the Senator yield?

Mr. JOHNSTON of South Carolina. I yield.

Mr. SALTONSTALL. As I understand, these amendments simply perfect a bill which has already passed this body. Is that correct?

Mr. JOHNSTON of South Carolina. That is correct.

The purpose of the bill was to provide promotions for temporary employees of the mail-equipment shops. The bill also provides that any period of continuous satisfactory service of a temporary employee in the mail-equipment shops performed prior to the effective date of the proposed act shall be creditable for a promotion to the rates of pay of grade 2 of the position in which such temporary employee is employed.

The Post Office Department estimates the annual cost of the bill to be $14,000. The Postmaster General made a favorable report thereon as introduced in the Senate, and the Senate bill was reported on by other agencies and met with the program of the President.

However, the House amended the Senate bill by striking the following language from the original bill, lines 9, 10, page 1, and line 1, page 2: "(f) Temporary employees in the mail-equipment shops paid on an annual basis shall be paid at the rates of pay of grade 1 of the position in which employed and shall," and inserting in lieu thereof the following language: "Each temporary employee in the mail-equipment shops paid on an annual basis shall be paid at the rate of pay of the lowest grade provided for a regular employee in the same type of position in which such temporary employee is employed, and shall."

The House also struck out lines 1 and 2 on page 3 reading: "to the rates of grade 2 of the position in which such temporary employee is employed" and inserted in lieu thereof "to the rate of pay of the second grade provided for a regular employee in the same type of position in which such temporary employee is employed."

Both House amendments were clarifying amendments which will not add to the cost of the bill but insures that such temporary employees will go to grade 3 under House bill 4495.

The Senate recedes from its original bill and accepts the bill as amended in the House.

The VICE PRESIDENT. The question is on agreeing to the motion of the Senator from South Carolina.

The motion was agreed to.

CHANGES IN OPERATION OF VILLAGE-DELIVERY SERVICE IN SECOND-CLASS POST OFFICES—CONFERENCE REPORT

Mr. JOHNSTON of South Carolina submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 1479) to discontinue the operation of village-delivery service in second-class post offices, to transfer village carriers in such offices to the city-delivery service, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House.

OLIN D. JOHNSTON,
HUBERT H. HUMPHREY,
ZALES N. ECTON,
Managers on the Part of the Senate.

TOM MURRAY,
RAY W. KARST,
EDWARD H. REES,
Managers on the Part of the House.

Mr. JOHNSTON of South Carolina. I ask unanimous consent for the immediate consideration of the conference report.

The VICE PRESIDENT. Is there objection?

There being no objection, the Senate proceeded to consider the report.

Mr. SALTONSTALL. Mr. President, did only a majority of the conferees sign the report?

Mr. JOHNSTON of South Carolina. They all signed it.

Mr. SALTONSTALL. Is it a unanimous report by the conferees of both branches?

Mr. JOHNSTON of South Carolina. That is correct.

Mr. President, I move the adoption of the conference report.

The VICE PRESIDENT. The question is on agreeing to the motion of the Senator from South Carolina.

The motion was agreed to.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Maurer, one of its reading clerks, announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 2296) to amend and supplement the act of June 7, 1924 (43 Stat. 653), and for other purposes.

The message also announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 2960) to amend the Rural Electrification Act to provide for rural telephones, and for other purposes.

The message further announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H. R. 5856) to provide for the amendment of the Fair Labor Standards Act of 1938, and for other purposes.

The message also announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H. R. 6305) to give effect to the International Wheat Agreement signed by the United States and other countries relating to the stabilization of supplies and prices in the international wheat market.

The message further announced that the House had agreed, without amendment, to the concurrent resolution (S. Cong. Res. 60) to print as a document a manuscript entitled "A Decade of American Foreign Policy: Basic Documents, 1941–1949," relating to American international relations.

The message also announced that the House had disagreed to the amendment of the Senate to the bill (H. R. 3699) to amend the Federal Farm Loan Act, as amended, to authorize loans through national farm-loan associations in Puerto Rico; to modify the limitations on Federal land-bank loans to any one borrower; to repeal provisions for subscriptions to paid-in surplus of Federal land banks and cover the entire amount appropriated therefor into the surplus fund of the Treasury; to effect certain economies in reporting and recording payments on mortgages deposited with the registrars as bond collateral, and canceling the mortgage and satisfying and discharging the lien of record; and for other purposes, asked a conference with the Senate on the disagreeing votes of the two Houses thereon, and that Mr. Cooley, Mr. Pace, Mr. Poage, Mr. Hope, and Mr. August H. Andresen were appointed managers on the part of the House at the conference.

The message further announced that the House had passed a bill (H. R. 5361) for the relief of Charles G. McCormack, captain, Medical Corps, United States Navy, in which it requested the concurrence of the Senate.

ANALYSIS OF SECTIONS 2, 3, AND 4 OF CONFERENCE REPORT ON SENATE BILL 1008—BASING-POINT BILL

Mr. MORSE. Mr. President, prior to the recent adoption of the motion to postpone until January 20, 1950, action on Senate bill 1008, I had planned to speak on that bill this afternoon, setting forth my analysis of sections 2, 3, and 4 thereof. In view of the fact that action has been postponed for further consideration until January 20, I shall not take the time of the Senate to make the speech which I intended to make, but I should like to have my remarks made a part of the RECORD, so that they can be considered in connection with the debate which will take place in January.

Therefore, I ask unanimous consent to have my speech printed at this point in the RECORD.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

SPEECH BY WAYNE MORSE ON BASING-POINT ISSUE—ANALYSIS OF SECTIONS 2, 3, AND 4 OF CONFERENCE REPORT ON S. 1008

Sections 2, 3, and 4 of S. 1008 would make far-reaching changes in sections 2a and 2b of the Clayton Act, as amended by the Robinson-Patman Act. Each of these sections of the bill deals with questions of price discrimination, and each section is closely interrelated with all the others. For instance, although an individual section seems to modify existing law with respect to particular forms of price discrimination, actually each successive section makes still further modifications with respect to the forms dealt with in the previous section.

Because of the interrelationships between each of the sections, it may be well to take up first a change which would be brought about by section 4D in the definition of certain key words which appear in the other sections. The key words are in the phrase "the effect may be." The significance of a law which would define these words in a manner contrary to their usual meaning may be explained as follows:

Under the present law all price discriminations are not illegal. On the contrary, only those discriminations are illegal which have the specified effects set out in section 2 (a) of the Clayton Act, as amended by the Robinson-Patman Act. The illegal discrimination is, in the language of the law, "where the effect of such discrimination may be substantially to lessen competition or tend to create a monopoly in any line of commerce, or to injure, destroy, or prevent competition." By prohibiting discriminations having the specified effect in terms of the language "the effect may be," the Congress adopted one of the stated purposes of the Clayton and Robinson-Patman Acts, which was to create a law to check the creation of monopoly before the ultimate achievement of monopoly. The phrase "may be" has served this purpose by virtue of the fact that the courts have normally interpreted it to mean "reasonable probability." Thus, under the present law, the FTC may issue a cease-and-desist order against a discriminatory practice which, if continued, would, in reasonable probability, have the monopolistic effects specified in the law.

Moreover, S. 1008 as passed by the House embraced the normal meaning of the term "the effect may be"; section 4D of the House version of the bill specifically defined this phrase to mean "reasonable probability." The conference report on the bill has, however, eliminated this long-standing meaning of the term, and has substituted language which would define the phrase to mean that there must be "reliable, probative, and substantial evidence of the specified effect." The consequence of this language would be to substitute for a law which prohibits discriminations that have the reasonable probability of substantially lessening competition, a law which would prohibit only discriminations which had already resulted in a substantial lessening of competition. Such a law as this might be compared to a traffic law which made it illegal for motorists to run through stop signs only if, after having run through a stop sign, the motorist found that his act had caused a substantial accident, as it would be only after the accident had occurred that its effect could be established by "reliable, probative, and substantial evidence."

ANALYSIS OF SECTION 2

The present law, in prohibiting discriminations of certain specified effects, makes no distinction between discriminations appearing directly in the quoted prices of goods, and those made indirectly by the seller's paying varying amounts of freight charges. Section 2A of the bill as passed by the House would have added language to section 2 (a) of the Clayton Act to make it specifically legal for a seller "to quote or sell at delivered prices if such prices are identical at different delivery points, or if differences between such prices are not such that their effect on competition may be that prohibited by this section." The language of this section of the bill has not been changed by the conferees, although the import of this language has, of course, been radically changed by the conferees' definition of the phrase "the effect may be" which has been substituted in section 4D of the bill. Changes in the present law which would be brought about by section 2A may be summarized as follows:

1. Delivered prices which are identical at all delivery points would be legal under any circumstance, no mater what their effect upon competition. This would be true under the conference report of S. 1008, as it would be under the House version of the bill. Delivered prices coming under this heading are of two types. The first is the so-called postage-stamp price, whereby a commodity sells for one delivered price all over the country. The second type is a limited form of zone prices. Such zone prices are those which come about when the sellers located in various parts of the country establish a single delivered price throughout the particular zone in which each seller markets his products. This form of zone price is distinguished from other zone prices only in that no individual seller, or no individual mill of a seller, sells in more than one zone.

Thus, if either version of the bill should be passed into law, any commodity at all could be sold on either the postage-stamp or limited-zone system; and such selling would not be subject to legal challenge, no matter how great the freight costs and no matter how much the adoption of such a practice might disrupt the basic industries of the country. For instance, if the steel companies should decide to designate the whole country as a single zone and quote one delivered price throughout the country, this practice would

not be open to legal challenge—except, of course, upon the possible grounds that the various sellers had conspired to adopt this practice. But even as to the latter possibility, it might be observed that if one of the largest corporations in this industry, having mills in various parts of the country, should adopt such a method of selling, the other producers could hardly avoid following suit. If it should happen that the postage-stamp method of pricing became the practice of this industry, or in any of several other basic industries, the disruptive effects upon the location of industry in the country could hardly be foretold.

2. Delivered prices which are different at different delivery points would be subject to legal challenge if they are discriminatory and if the effect may be that specified by the present law. But in such situations the restrictive definition of the term "the effect may be," as contained in section 4D, has a particular bearing. Such discriminations would be subject to a cease-and-desist order, provided the specified effects could be proved by reliable, probative, and substantial evidence. Thus, unlimited-zone prices, basing-point prices, and other variations of these systems would not be subject to a charge of illegal price discrimination until after a sufficient number of businesses had been destroyed that the effect of the discriminatory practice could be established as probative evidence.

Section 2B of S. 1008 deals with freight absorption. In considering what changes this section would make in the law, it should first be noted how this section of the bill relates to the previous section. It has already been pointed out that section 2A would confer unreserved legality upon postage-stamp and limited-zone prices, and that it would confer substantially unreserved legality—insofar as the law against discrimination is concerned—upon basing-point and unlimited-zone prices. Each of these methods of pricing contains some amount of discrimination, since in any practice of averaging freight costs the seller charges some phantom freight to his nearby customers and absorbs a corresponding amount of freight when selling to his distantly located customers. Thus, it may be observed that each of the pricing methods upon which some exemption from illegality would be given by section 2A, would remain subject to the restraints of the present law only by virtue of the fact that each method involves freight absorption.

But after conferring, in section 2A, certain exemptions upon freight absorption as practiced in a variety of specific pricing methods, the bill would confer, in section 2B, certain exemptions to freight absorption in general. Thus, a seller who is charged with committing an illegal price discrimination under this bill would be confronted with the question whether he should exercise his exemption under the specific pricing method he might be using, or under the exemption for freight absorption in general, as provided under section 2B. Except for postage-stamp and limited-zone prices, he would find the exemptions under section 2B more sweeping.

As S. 1008 passed the House, section 2 (b) contained the so-called Carroll amendment. This amendment would have continued to make discriminations carried out through freight absorption (and phantom freight) illegal where the effect of the discrimination would in reasonable probability be that specified in the present law. The conferees have, however, struck out the Carroll amendment and substituted the following language: "Except where such absorption of freight would be such that its effect upon competition will be to substantially lessen competition." This language would make two drastic changes in the existing law. First, it would limit possible illegality to only one of the effects specified in the existing law, namely, "to substantially lessen competition." Second, it would further limit even such possible illegality by the introduction of the new term "will be." Thus, if this language should become law, the Federal Trade Commission could issue no order against discriminations carried out through freight absorption unless it could prove as a positive certainty that the discrimination would have the future effect of a substantial lessening of competition. Since it is not within the province of mankind to prove that a future event of this kind will absolutely take place, the effect of this language would be to legalize any and all discriminations carried out by means of freight absorption irrespective of either the past or the reasonably probable future effects of the discriminations. Under a literal interpretation of this language of section 2 (b), a seller would be free to absorb any and all freight charges to some customers, while refusing to absorb any freight charges to other customers located in the same town. For instance, a steel mill located in Chicago could still absorb all the freight charges on shipments to certain large fabricators in Denver, while refusing to absorb any freight charges to smaller competing fabricators in Denver. Since freight charges are an item of major importance in the delivered cost of steel, one may imagine that such a discrimination in favor of the large fabricators in Denver would soon put the smaller competitors there out of business.

ANALYSIS OF SECTION 3

However far reaching the changes in existing law which would be brought about by sections 2A and 2B of S. 1008, these would be overshadowed by the changes contained in section 3 of this bill. This may be understood from the fact that each successive section of the bill provides successively greater exemptions to the present law against discriminations. Section 2A, as has been observed, would provide exemptions for freight absorption and phantom freight in the case of postage-stamp price systems and limited-zone price systems. Section 2B would provide exemptions for discriminations carried out through freight absorption and phantom freight in general. Finally, section 3 would provide certain exemptions for discriminations in general, whether the discriminations are carried out indirectly by manipulations of freight charges, or whether they are carried out by quite direct means, such as through quantity discounts. These exemptions would be brought about by giving the so-called good-faith defense the status of an absolute and complete defense under section 2 (b) of the Clayton Act, as amended by the Robinson-Patman Act.

With respect to the so-called good-faith defense, the bill drafted by the conferees differs from the bill passed by the House in that the conferees have removed the so-called Carroll amendment. Similarly, the bill drafted by the conferees is different from the bill passed by the Senate in that the conferees have eliminated the so-called Kefauver amendment. In lieu of the language of the Carroll amendment on the one hand, or the Kefauver amendment on the other hand, the conferees have substituted a general qualifying clause which reads as follows: "Except that this shall not make lawful any combination, conspiracy, or collusive agreement, or any monopolistic, oppressive, deceptive, or fraudulent practice." While the language of this qualifying clause has some tone-qualities that are quite laudable, and while it would doubtless have some relevance if included in amendments to the Sherman Act, it is only irrelevant and extraneous language insofar as the law against price discrimination is concerned. On the other hand, both the Kefauver and Carroll amendments relate specifically to questions of what price discriminations sellers can and cannot engage in.

WHAT IS THE GOOD-FAITH DEFENSE?

Section 3 of S. 1008 provides that a seller may justify his discrimination, and thus avoid a cease-and-desist order, by showing that the discrimination "was made in good faith to meet the equally low price of a competitor." It also provides that the burden of showing justification shall be upon the person charged with a violation. But what is this burden? What does a seller have to do in order to show that his price discrimination was made in "good faith to meet the lower price of a competitor?"

As the courts have construed the term "good faith," the first and simplest way in which a seller can show justification is to show that the lower price of the competitor did in fact exist. This means that if the seller charged with an illegal discrimination can show that his competitor had in fact made the quotations at the lower price, his burden of showing justification is satisfied. Where does the question of "good faith" enter into this burden? It enters in this way: If the seller charged with a violation cannot show that the lower price of the competitor did in fact exist, then he may establish justification by showing that he acted in "good faith" in believing that such a lower price did exist. This meaning of the term "good faith" is clear from the Supreme Court's decision in the Staley case (324 U. S. 746). In this case the Court said: "Section 2b does not require the seller to justify price discriminations by showing that in fact they met a competitive price. But it does place on the seller the burden of showing that the price was made in good faith to meet a competitor's." In order to establish good faith, according to this decision, the seller is merely required "to show the existence of facts would lead a reasonable and prudent person to believe that the granting of a lower price would in fact meet the equally low price of a competitor." This is the whole length and breadth of the seller's burden of establishing "good faith." No question of the discriminator's belief as to what the effect of the discriminations will be—whether they substantially lessen competition, destroy smaller buyers, tend to creat a monopoly—no such question enters the matter. He establishes "good faith" merely by showing a basis for believing that his discriminatory price would meet the price offered by a competitor.

Of course, if the Federal Trade Commission can show that discriminations in prices are made as a result of an illegal agreement or conspiracy among the competitors, then the "good faith" defense is overruled. Such, for example, was the outcome in the *Cement Institute* case. When the Federal Trade Commission proved that the discriminations in cement prices were inherent in the price system maintained by agreement and collusion among the cement manufacturers, the Supreme Court ruled that the defendants could not justify the discriminations on the ground that they were acting in good faith. But the seller's burden of showing "good faith" does not extend to the task of proving that his discriminatory price was not pursuant to a conspiracy or collusive agreement with his competitors. On the contrary, the burden of proving conspiracy—and therefore the absence of good faith—must necessarily be borne by the Commission. It is for this reason that the language concerning "combination, conspiracy, or collusive agreement, or any monopolistic, oppressive, deceptive, or fraudulent practice" which the conferees have put into section 3 of the bill, in lieu of the Carroll or Kefauver amendments, neither adds nor detracts anything from the other language contained in this section of the bill. The most that this extraneous language could mean is that price discriminations which substantially lessen competition could be found to be illegal under the Clayton Act, provided sellers charged with a violation could be proved to be in violation of the Sherman Act. Conversely, it would also mean that where two or more sellers are meeting one another's price, or have "good faith" reason to believe

that they are meeting one another's price, these sellers could never be in violation of the Clayton Act unless it could first be proved that they are in violation of the Sherman Act. This raises a question, of course, as to why the conferees have proposed to retain on the books a semblance of the law against discrimination when the presumption of their bill is that the Sherman Act is adequate to the purpose of preventing practices which "substantially lessen competition or tend to create a monopoly, or to injure, destroy, or prevent competition."

THE DEATH WARRANT FOR SMALL BUSINESS

Section 3 of S. 1008 would make a virtual nullity of the Robinson-Patman Act amendment to the Clayton Act. By reestablishing the "good faith" defense, it would place beyond the law any and all price discriminations of a seller—no matter how great and how destructive of small business—so long as another seller met, or offered to meet, the discriminatory price. Where a single seller made a discrimination having the specified monopolistic effects, and was not meeting the price of another seller in so-doing, the Federal Trade Commission could issue a complaint with some possibility that a cease-and-desist order might eventuate provided it could find out about the discrimination and issue its order before another seller met, or offered to meet, the discriminatory price. But once a second seller met or offered to meet the discriminatory price, the discrimination of neither seller could be stopped, even though the Commission could discover which of the several sellers had initiated the discrimination—the fact that a second seller was meeting or offering to meet the discriminatory price would make the discrimination of both sellers currently legal.

It seems that the Congress which passed the Robinson-Patman Act was primarily concerned with correcting the nullity which the "good faith" defense had made of the prohibiting language of the old Clayton Act. In reviewing the legislative history of this act in the *Standard Oil of Indiana* case, the United States Court of Appeals for the Seventh Circuit pointed out the position of the "good faith" defense under the old Clayton Act, and observed: "But since large buyers could always get such price meeting by suppliers to justify a discrimination in price in their favor, the purpose of the act to avoid such discrimination was easily evaded." This court also pointed out that the chairman of the House conferees on the Robinson-Patman bill had explained the purpose of modifying the old "good faith" defense, and quoted his explanation on the floor of the House as follows:

"It is to be noted, however, that this does not set up the meeting of competition as an absolute bar to charge of discrimination under the bill. It merely permits it to be shown in evidence. This provision is entirely procedural.

"If this proviso were construed to permit the showing of a competing offer as an absolute bar to liability for discrimination, then it would nullify the act entirely at the very inception of its enforcement, for in nearly every case mass buyers receive similar discriminations from competing sellers of the same product." (CONGRESSIONAL RECORD, June 15, 1936, p. 9418.)

What was said then of the ability of large buyers to obtain from two or more suppliers discriminatory price quotations in their favor, is no less true today. The tendency of sellers to grant special price concessions to large buyers is one of the most widely observed characteristics of business behavior. Such tendencies to grant special price concessions to large buyers do not arise merely from the seller's prospect of a cost saving in selling to the large buyer. The present law is not intended to discourage price discriminations which are justified by differences in the costs of supplying different sellers—the cost defense is always a complete and final defense against a charge of price discrimination. The price discrimination which is philosophically indefensible on any grounds is that which goes beyond cost savings and permits large buyers to drive small buyers out of business. The individual seller may well reason that the prospect of an increase in the volume of his business which would result for his sales to a large buyer will result in cost savings by a further spreading of his overhead costs. But it is the total volume of business—the orders of sellers—both large and small—which justifies overhead and permits the economies of mass production. It is not just the orders of the large buyers which do these things.

Just as the "good faith" defense would justify price discriminations by which large buyers put small buyers out of business, it would also justify discriminations by which large sellers put small sellers out of business. When a large seller, with national sales outlets makes a special low price in one particular territory, at least one other seller will usually meet this special price. In this case, the "good faith" defense would exempt the discriminations from a cease and desist order, even though the result was to drive out of business small competing sellers having only local or regional sales outlets.

In commenting on the conference report on S. 1008, the Wall Street Journal of October 13 expressed the opinion that the "real relief for industry" contained in this bill lies in the "good faith" defense which would be established by section 3. It is of pointed significance that this journal, which is conceded to be in touch with certain segments of business thinking, should look upon such a modification of the law as "relief for industry." Since a modification of the law on price discrimination which means a "relief" for some members of industry must necessarily mean a stricture for other members, it is not difficult to surmise which members of industry would gain the relief and which would gain the stricture. Plainly, S. 1008 is a bill for big business and a bill which would destroy small business.

(Mr. MORSE addressed the Senate. After having spoken for a little while, he yielded to various Senators for action on conference reports and other business. His speech appears entire at a subsequent place in today's RECORD.)

MILITARY ESTABLISHMENT APPROPRIATIONS—CONFERENCE REPORT

Mr. HAYDEN. Mr. President——

The VICE PRESIDENT. The Senator from Oregon has the floor. Does he yield to the Senator from Arizona?

Mr. MORSE. Mr. President, I yield to the Senator from Arizona for the purpose of presenting a conference report.

Mr. HAYDEN submitted the following conference report:

The committee of conference on the disagreeing votes of the two Houses on certain amendments of the Senate to the bill (H. R. 4146) making appropriations for the National Security Council, the National Security Resources Board, and for military functions administered by the National Military Establishment for the fiscal year ending June 30, 1950, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 73, 74, 77, and 81.

That the Senate recede from its disagreement to the amendment of the House to the amendment of the Senate numbered 100 and agree to the same.

The committee of conference report in disagreement amendment numbered 99.

ELMER THOMAS,
CARL HAYDEN,
RICHARD B. RUSSELL,
JOSEPH C. O'MAHONEY,
STYLES BRIDGES,
CHAN GURNEY,
KENNETH S. WHERRY,
Managers on the Part of the Senate.

GEORGE MAHON,
HARRY R. SHEPPARD,
ROBERT L. F. SIKES,
CLARENCE CANNON,
ALBERT J. ENGEL,
CHARLES A. PLUMLEY,
Managers on the Part of the House.

Mr. HAYDEN. Mr. President, I move that the Senate agree to the conference report.

Mr. SALTONSTALL. Mr. President, is this the conference report on the military appropriation bill?

Mr. HAYDEN. This is the conference report on the national military appropriation bill for 1950.

Mr. SALTONSTALL. I suggest the absence of a quorum.

Mr. MORSE. Mr. President, may it be understood——

The VICE PRESIDENT. The Senator from Massachusetts has not been recognized for the purpose of suggesting the absence of a quorum. The Senator from Arizona [Mr. HAYDEN] had the floor. Will the Senator yield?

Mr. HAYDEN. Let me discuss the matter with the Senator.

Mr. SALTONSTALL. Mr. President, I rise to a parliamentary inquiry.

The VICE PRESIDENT. The Senator will state it.

Mr. SALTONSTALL. Is not the presentation of the conference report at this time a question of unanimous consent, or did the Senator move the consideration of the report?

The VICE PRESIDENT. The Senator made a motion.

Mr. SALTONSTALL. I understood the Senator did make a motion.

The VICE PRESIDENT. It is a privileged matter, and the Senator moved that the report be agreed to. That is the question before the Senate.

Mr. SALTONSTALL. Mr. President, will the Senator from Arizona yield for a question?

Mr. HAYDEN. I yield.

Mr. SALTONSTALL. I suggested the absence of a quorum, because this is a very substantial appropriation bill, and it has been a matter of great controversy, on which there are differences of opinion. I believe Senators should at least be notified that the report is being considered, even if there is no objection to it.

Mr. HAYDEN. The point is, what can they do about it? We have arrived at a place where, as I see it, there is nothing to do but to agree to this conference report. If the Senator feels that there might be some possible action taken different from that, I would not object to the calling of a quorum, but does the Senator really believe it will make any difference?

Mr. SALTONSTALL. Will the Senator yield?

Mr. HAYDEN. I yield.

Mr. SALTONSTALL. I would say most respectfully to the Senator from Arizona that, sitting on this side of the aisle as the assistant minority leader, I do not care to take the responsibility of having a bill of this character, of such widespread interest, and carrying the amount of money involved in the bill, go through without at least having a quorum called. If it is not in order to ask for a quorum call at this time, I hope that the Senator from Arizona will defer his motion until the Senator from Oregon has concluded his remarks.

Mr. HAYDEN. That was the next question I was about to mention. The Senator from Oregon was kind enough to yield to me on the condition that this matter would be disposed of promptly. Is the Senator from Oregon willing to have a quorum called?

The VICE PRESIDENT. The Senator from Oregon yielded to the Senator from Arizona to make a motion. That does not mean that the Senator from Arizona can yield to the Senator from Massachusetts for the purpose of making a point of no quorum unless the Senator from Oregon is willing to yield for that purpose.

Mr. MORSE. Mr. President, I now ask unanimous consent that I be allowed to yield for the purpose of a quorum call for the disposition of this conference report, with the understanding that after the disposition of the conference report I shall be allowed to take the floor and proceed with my speech.

The VICE PRESIDENT. Is there objection to the request of the Senator from Oregon? The Chair hears none, and it is so ordered.

Now, does the Senator from Arizona yield to the Senator from Massachusetts to make the point of no quorum?

Mr. HAYDEN. I yield.

Mr. SALTONSTALL. I suggest the absence of a quorum.

The VICE PRESIDENT. The Secretary will call the roll.

The roll was called, and the following Senators answered to their names:

Aiken	Hayden	McMahon
Anderson	Hickenlooper	Magnuson
Baldwin	Hill	Malone
Bridges	Holland	Millikin
Cain	Ives	Morse
Capehart	Jenner	Myers
Chapman	Johnson, Colo.	Neely
Connally	Johnson, Tex.	O'Conor
Cordon	Johnston, S. C.	O'Mahoney
Donnell	Kem	Pepper
Douglas	Kerr	Russell
Downey	Kilgore	Saltonstall
Dworshak	Knowland	Schoeppel
Ecton	Langer	Thomas, Okla.
Ellender	Leahy	Thomas, Utah
Ferguson	Lodge	Thye
Fulbright	Long	Watkins
George	Lucas	Wherry
Graham	McCarthy	Williams
Green	McFarland	Young
Gurney	McKellar	

The VICE PRESIDENT. A quorum is present.

Mr. HAYDEN. Mr. President, I have moved the adoption of the conference report.

Mr. SALTONSTALL. Mr. President, will the Senator yield?

Mr. HAYDEN. I yield.

Mr. SALTONSTALL. Will the distinguished Senator from Arizona tell us very briefly the amount of the appropriation? As I understand, the issues between the House conferees and the Senate conferees which were left undecided from a previous conference concerned the procurement of aircraft and the building up of stock piles.

Mr. HAYDEN. That is correct.

The amount of the bill as passed by the House was $15,909,116,800. The amount of the bill as passed by the Senate was $14,790,380,478. As agreed to in conference, the bill now amounts to $15,535,-863,148.

The items in disagreement related to the Air Force.

There was a cash appropriation in the House version, to which we did not agree, of $15,266,000. There was contract authority for aircraft of $577,755,000. Then there was an additional rescission of Air Corps funds amounting to $6,635,000. So the total difference between the two bodies on the aircraft program was $741,306, and the Senate conferees receded.

With respect to Senate amendment No. 99, which provided for a rescission of $275,000,000, we agreed in conference to make the rescission $100,000,000, and the House has adopted an amendment to that effect.

I ask that the Chair lay before the Senate the action of the House on Senate amendment No. 99.

The VICE PRESIDENT. That will have to await agreement on the conference report.

Mr. SALTONSTALL. Mr. President, I realize that this conference report must be adopted if the military program is to go ahead. On the other hand, I respectfully call attention to the fact that the Senate adopted a so-called 48-air-group plan, which was recommended in the first instance by the President of the United States and by the Secretary of Defense.

The plan which has now been adopted is bigger than that recommended by the Commander in Chief and his chief assistant. The plan as it was adopted by the Senate called for an amount of $3,600,000,000 worth of procurement of airplanes in the Navy and the Army, if my memory is correct. That was to pay for past contract authority, to grant new contract authority, and for cash appropriations.

If my information is correct, no estimates can be made as to what the new plan, as now recommended, may call for. At least it will call for $3,600,000,000 for next year, that is the fiscal year 1951, and probably even more if carried through, with no definite estimates given to us for years to come.

I discussed this question with the officers of the Office of the Secretary of Defense when the bill was in conference. The figures I give now are figures which are not so confidential that they cannot be stated here. They relate to procurement. I should like to put them in the RECORD at this time, because they show, it seems to me, particularly in connection with the discussions now proceeding before the House Armed Services Committee—discussions as to the relative merits of the B–36 bomber and the super-aircraft carrier, and as to the general strategy and tactics of the military with respect to the defense of the country—how we now are appropriating vast sums of money and are increasing the number of aircraft for procurement, without knowing just where we are headed, particularly because of this very considerable controversy.

As I say, I should like to read a brief statement relative to Air Force procurement.

Mr. FERGUSON. Mr. President, before the Senator does so, I wonder whether he will yield for a question.

Mr. SALTONSTALL. I yield.

Mr. FERGUSON. Is it not possible, however, for the President of the United States, who has charge of the expenditure of this sum of money, to determine not to spend the full amount, even though it is appropriated, if in his judgment it is to the best interests of the services not to spend the full amount appropriated?

Furthermore did not the President indicate that he did not want the full amount; and therefore would not it be his duty not to spend the additional amount appropriated?

Mr. SALTONSTALL. Mr. President, I answer the first question in the affirmative. I am not so clear about the answer to the second question. If the Congress appropriates the money, it seems to me it is perfectly proper for the President to believe that his judgment has been overriden by the Congress, and it is perfectly proper for the President then to follow the judgment of the Congress. However, none of us can know definitely about that matter. I do not think that is a fair responsibility to place upon the President.

Mr. FERGUSON. After all, is it not the responsibility of the President to determine, after the Congress appropriates the money, whether he should use it in that particular year, inasmuch as we are not specifying the kind of planes or weapons which should be purchased?

Mr. SALTONSTALL. Personally, of course, I hope the President will not spend it unless he can be sure just what the future military program is; I hope the President will not spend it unless the discussions now going on before the House committee make more clear what our policy is to be. Until the President is absolutely clear about that matter, I hope he will not spend all the money; but it seems to me we are thus putting an extremely great burden upon him, whereas perhaps we ourselves should shoulder that burden to a greater degree.

Mr. FERGUSON. But is it not true that the President has experts to assist him in determining the kind of weapons the United States should have for its defense? Moreover, in view of the fact that the President advised the Congress that he wanted only so much money, in view of the further fact that there has been so much conflict in Congress over this question, and particularly since the exact number of aircraft to be included

within 58 groups is not defined—there is no statement or exact definition that there must be so many aircraft in a particular group—would not the President have the discretion to determine what kind of weapons should be provided and what should be the size of the groups during the remainder of this fiscal year?

Mr. SALTONSTALL. The President certainly has that discretion; and as one citizen of this country, I pray that he will exercise it properly.

Mr. KNOWLAND. Mr. President, will the Senator yield

Mr. SALTONSTALL. I yield.

Mr. KNOWLAND. I think the able Senator from Massachusetts will agree that one of the problems with which the Congress has been confronted has been the differences of opinion which have been presented to the Congress by various persons who presumably are competent. Last year the President's Air Policy Board was appointed; it was a very outstanding Board of American citizens who presumably made a very careful study of the defense needs of the Nation. They suggested that the minimum requirements for the national defense would include a 70-group program for the Air Force, and they presented that recommendation to the Congress as an official document. At the time when testimony on the universal military training bill was being taken before the Senate Armed Services Committee, of which the able Senator from Massachusetts is a member, the Secretary for Air Force, at that time Mr. Symington, in answer to questions by members of the committee, indicated that, at least last year, the Defense Establishment, or at least his part of it, had not changed its opinion that a 70-group air force program would be necessary.

So it is a little difficult for the Congress, in performing its constitutional function of providing the necessary funds for the defense of the country, to have those charged with responsibility for such matters to blow first hot and then cold; to be told first that 70 groups are needed, and then the next year to be told by an official group that only 48 groups are needed, particularly inasmuch as 48 groups would be a reduction from the number we now have.

As the Senator knows, I would be inclined to be more favorably disposed toward the action taken by the House, because I think we should determine a policy, and then should stick to it. I do not think we should be wedded either to 78 groups or 58 groups or 40 groups, but I do not think any of the armed forces establishments should propose both peaks and valleys, so to speak, in making their recommendations relative to our military procurement needs, so that from year to year we do not know what kind of defense program we are to have.

Mr. SALTONSTALL. Mr. President, of course, the term "air group" is a very loose one. I cannot go back of the figures, because I do not have sufficient knowledge to be able to do that, but I think they show that in some categories the President's plan, as submitted, lives up to the so-called Finletter report for the 70-group air force.

My only point is that I think we wish to make sure where we are going, so far as we can make sure, in connection with the matter of the aircraft procurement program and all other military programs. I think we must consider the financial side, as well, so as not to get ourselves committed to such a large program on the military side of our entire budget, that it will be a financial burden perhaps to a greater degree than we can carry in a peacetime economy.

Mr. President, the President's budget, as revised, which the Senate adopted as regards Air Force procurement, calls for 1,636 aircraft. The House raised this by a dollar value of $561,000,000 for aircraft procurement, equaling 869 additional aircraft.

The other figures, stated by the Senator from Arizona [Mr. HAYDEN], relate to other categories, as I understand; and I cannot go into them.

Mr. HAYDEN. That is correct.

Mr. SALTONSTALL. The latest figures available in the Defense Establishment show that it is not intended to use any of this money to purchase bombers of any kind, and therefore the addition of this money would not improve the planned strategic bombing strength of the Air Force. As I have said, these figures and this information come from the Secretary of the National Defense Establishment, not from the Air Corps, which may differ with some of these statements.

It does add 474 fighters, as indicated in the latest available figures; but I wish to point out that, of the fighters scheduled to be purchased with this money, over half of them cannot be put on procurement in fiscal 1950, and possibly not even in 1951, as the models are still in the experimental and evaluation stage, and are not yet ready to be produced in volume. It also adds, according to the latest figures, an indicated 164 transports and 231 trainers.

As regards strategic bombing and reconnaissance strength, the President's budget calls for a greater number of aircraft in this category than the so-called Finletter 70-group program. It is a fact that under the procurement program indicated to implement the President's budget, the same number of strategic bombers are indicated for procurement as are necessary to support the 70-group program. It is also a fact that the groups so equipped are at their ultimate strength in planes per group, with pipe-line planes also becoming available. Future years' procurement of nominal amounts of heavy bombers will provide the necessary aircraft for attrition purposes and to keep these groups at full strength.

The current inventory figures for the Air Force show clearly that they have an adequate number of planes on hand to implement not only the 70-group program, but a considerable number of groups in addition. The planes are similar to those being utilized in the present operational groups.

The President's budget would provide for a reasonably modern 48-group air force in terms of new equipment.

One point that should be borne in mind when projecting an Air Force in terms of groups and planes is the rising cost of various types of airplanes. For instance, the B–17, which was our prewar bomber, cost approximately $333,000. The Finletter Commission in contemplating the 70-group program was thinking in terms of the B–29 plane, which cost approximately $680,000. The modern bomber of the B–36 type costs in the neighborhood of $3,400,000, and none of the above costs include spares or spare parts. Therefore, as we increase the number of groups and the number of planes, the cost factor becomes of increasing significance. A similar comparison of prewar fighters with current fighters is of great significance. The F–51, which was the best of the prewar fighters, cost $67,000. The F–86, which is the best of the operating jets, costs $260,000, whereas some of the fighters projected for procurement out of the 1950 budget cost $881,000. These are the net fly-away costs per plane.

Mr. President, I am heartily in sympathy with the idea of having a proper Air Force, and I hope we shall have it. I hope the unfortunate discussion and difference of opinion which is now being aired in the House committee will come to an end as soon as possible. We all want to protect our security in this country. We all want to have the necessary military strength. What we want to consider is just how to make certain that the financial condition of our Government and our country can support the military strength for which we are appropriating funds. My only reason for rising at this time is to state that I believe sincerely that we should follow the President's recommendations in this important regard, so far as we can. He is the Commander in Chief. I believe also that his judgment in this instance meets with the general conditions of our economy and the needs of our military. Of course we can go forward as fast as we can with all kinds of needs of our Military Establishment. They always want new equipment. They will always need new equipment. But what we want to do is to give them the most essential equipment, and do it in a way that will be for the best interest of our security.

Mr. President, I shall not vote against the conference report, because I know it is useless; we must put it through. But I do believe that we should consider very carefully now and in the future whether we are providing one branch of the service with funds at the expense of other branches to such a degree that our military strength may become too heavy a load for us to bear in a peacetime economy, considering all the other needs of the country.

Mr. KNOWLAND. Mr. President, I call to the Senate's attention at this time, and ask to have printed as a part of my remarks, the leading article appearing in this week's issue of United States News and World Report, under the heading "Truth about Soviet air force: now the biggest in the world." I ask that the entire article be printed as a part of my remarks. But I invite the attention of the Senate to two or three paragraphs in

the article, which I think are of vital importance with respect to air strength. It says:

Air strength of Russia, on the basis of information now available, is formidable and growing.

In numbers, Russia's air force totals about 15,000 first-line planes. That's reported by Gen. Omar Bradley, chairman of the United States Joint Chiefs of Staff. In addition, the Soviets have 10,000 more planes in reserve. This compares with Air Force strength in United States of 9,400 active planes, 9,100 planes in reserve. Soviet power is about the same as the combined strength of the United States Air Force and Navy air arm.

Of those 15,000 first-line Soviet planes, British intelligence sources give this breakdown—

It then gives a break-down as between bombers and fighters. It also goes on to say, under the heading of "Plane types":

Plane types of Russia are described by United States and British experts as being at least as good as Western types in the fighter-plane field, not so far advanced in the bomber field.

The article concludes:

Over all, the evidence is that Russia's Air Force must be considered able to do anything to the United States that the United States Air Force is able to do to Russia. When Russia gets an adequate stock pile of atom bombs, in the opinion of qualified experts in Great Britain and United States, this country's advantage in the air is likely to be gone.

I merely wish to say, Mr. President, before we act on the report, that the facts stated in the article I believe are substantially correct. I say that as a member of the Armed Services Committee, as well as of the Appropriations Committee and the Joint Committee on Atomic Energy. But I also want to point out to the Senate, because I think both the Congress and the country should have it clearly in mind, that, so far as I know, there was not a single plane which was designed after Pearl Harbor that saw fighting service in World War II, in the lapse of a period of approximately 4 years. We simply cannot get an air force overnight. At least a period of 4 years, and in some instances more than that, must elapse between the time of the designing of a plane and the time it is ready for combat use. In this day of the airplane and the atom, I do not believe that this Nation will ever dare get caught with a second-best air force. If we have a plane which is just a few miles slower or a little less effective than the plane of the enemy, we are sending American men out with tremendous odds against them.

For that reason, though I recognize the problems as raised by the able Senator from Massachusetts, I think in the long run, with the facts that were presented recently by the President of the United States, regarding the atomic development in Russia, this country should not be left with anything less than a 58-group air force.

Mr. President, I ask unanimous consent that the article to which I have referred be printed in the RECORD at this point, following my remarks.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

TRUTH ABOUT SOVIET AIR FORCE: NOW THE BIGGEST IN THE WORLD—WITH ATOM BOMBS, COULD DO ANYTHING UNITED STATES CAN

Russian air force is the biggest in the world, and growing. Long-range, atom-carrying bombers are getting new emphasis.

Main strength is in tactical craft to support land armies. Jet fighters, guided missiles for defense are strong, too.

Soviet air planning, up to now, has been aimed at protecting the homeland. But bombers big enough to hit the United States are on hand, ready for active duty.

This fact gradually is being accepted by top military planners of the United States: The air force of Russia, already powerful, can do to the United States what the United States Air Force can do to Russia once both nations are equipped with a stock pile of atomic bombs.

A claim is made by the United States Air Force that its bombers, carrying atom bombs, can destroy Russian cities and industries, and may be able to win a war alone. If the claims of air planners in the United States are correct, then the reverse could apply and a well-developed Russian air force could destroy American cities and industries and might, by itself, win a war.

The truth about Russia's air force, as a result, is beginning to take on high importance for this country. Military services of the United States and of nations associated with this country are starting to appraise carefully the strength of Russia in the air. Essential facts about present Soviet air power are coming to light.

Air strength of Russia, on the basis of information now available, is formidable and growing.

In numbers, Russia's air force totals about 15,000 first-line planes. That's reported by Gen. Omar Bradley, Chairman of United States Joint Chiefs of Staff. In addition, the Soviets have 10,000 more planes in reserve. This compares with Air Force strength in the United States of 9,400 active planes, 9,100 planes in reserve. Soviet power as about the same as the combined strength of the United States Air Force and the Navy air arm.

Of those 15,000 first-line Soviet planes, British intelligence sources give this breakdown:

Big bombers, of the type that could reach the United States from bases in Russia, account for 750 to 1,000 four-engine aircraft. One Soviet bomber division, the largest, specializes in Arctic flying and operates from Siberian bases.

Interceptor planes, jet propelled and far faster than B–36 bombers of the United States, account for another 1,000 planes in an independent Fighter Command. Sole function of these aircraft is to intercept western bombers that may try to reach Soviet cities and industrial areas.

Fighters and fighter bombers, however, comprise most of the present Soviet Air Force. There now are 12 tactical "air armies of about 1,000 planes each, under direct authority of Russian Army commanders. Their prime purpose is to furnish air support for Soviet land forces, but these planes also are available for use against bombers that attack Soviet cities and defense installations.

Coastal defense planes, under command of the Soviet Navy, account for the remaining 1,000 planes. This force is designed primarily to guard Soviet ports and coast lines from air attack.

Missiles for antiaircraft use also add to the Russian Air Force's defensive strength. Chief of the United States Navy's guided-missile operation, Capt. John H. Sides, discloses that the Russians have an antiaircraft missile able to knock down aircraft flying at an altitude of 65,000 feet from distances 31 miles away. That missile, with a proximity fuse, a radar homing device, and a top speed of 1,700 miles an hour, was captured from the Germans 4 years ago, when it was within a year or two of final development. They—not long-range missiles—are getting the emphasis in Russia's guided-missile program.

Airmen—pilots, gunners, and ground crews in Russia's present air force—are estimated by General Bradley at about 600,000 men. That's nearly 50 percent more than the strength of the United States Air Force.

That, in brief, is the picture of Russia's new air force, as drawn by responsible officials in United States and Britain. It shows, too, 500 air regiments equipped largely with postwar planes, adding up, numerically, to the biggset single air force in the world.

Strategic air power, neglected in the past, is beginning to be stressed moderately in this air force. New Soviet bombers, apparently copies of the United States B–29, have a probable range of 4,500 miles or more. With that range, traveling one way, those bombers could reach any point in the United States from bases in Siberia.

The Russians now have at least 8 of these planes, big enough to carry the atom bomb, for every city in the United States with a population of 100,000 or over. Soviet military leaders have not threatened use of their bombers to knock out the United States, but, with an adequate stock pile of bombs, they can counter the United States moves in strategic warfare.

Tactical air power, rather than bombers, is getting the big emphasis, nonetheless. Two-thirds of Soviet air strength is in planes for the support of armies, as artillery to push ahead of land forces. Concept of Russia's military planners is that the prize of future war is Europe. Idea is this: Armies that can overrun and occupy Europe will win the war. Tactical air power is vital in that operation, and thus is getting priority.

Defensive strength against enemy bombers, however, is growing fast. According to British estimates, the Russians have 1,500 to 2,000 fast jet fighters in squadrons, with the prime mission of shooting down any bomber attack on the homeland. That force is said to be growing at the rate of 200 planes a month. These planes are more heavily armed than the United States or British jet fighters. To get advance warning, a vast network of radar installations is under construction around Russian industrial areas. And a series of anti-aircraft-missile installations is reported being built near major cities.

Plant types of Russia are described by United States and British experts as being at least as good as western types in the fighter-plane field, not so far advanced in the bomber field. As examples:

Jet fighters and interceptors are faster than standard western models. Russia's new Yak jet fighter was tracked by radar over Korea at better than 600 miles an hour. The latest Yak model is reported to be in the 650-mile-an-hour class. This plane, possibly the fastest plane in use by any of the world's air forces, is thought to have a power plant based on the British Nene jet engine, sold to Russia in 1948.

German influence shows up in other fighter types. The two jet research planes pictured on page 13 closely resemble the wartime product of German jet experts now working in Soviet research centers.

Jet bombers, too, are being developed. The Ilyushin four-jet bomber now is in production. Its four underslung jet engines resemble those on the United States Boeing B–47 jet bomber, while its fuselage is shaped

like that of the Martin Marauder. It has limited range, could reach western Europe, but not the United States.

Long-range bombers, of the Russian TU-70 type, appear to be copied from B-29's interned in Russia during the war. New, bigger models, however, are believed to be in the development stage.

What it adds up to is this:

Emphasis in Russia's postwar air force shows the direction of Soviet war planning. That emphasis is on tactical air power for support of big land offensives, not on fleets of long-range bombers for an atomic war against western cities primarily.

Capabilities of Soviet air power, however, are basically the same as those of United States air power. Bombers with sufficient range and size, and in sufficient quantity, are available to carry an atomic attack to United States centers, just as American B-36's could carry such an attack to Russian targets. Air defense in Russia, too, is strong enough to require serious attention.

Strength of that air force, primarily, is in its new-model fighter-bombers for support of the army, its growing fleets of fast interceptor planes, and its superiority in numbers that could control the skies over Europe in the event of war.

Weakness in some fields is evident, too. Soviet bomber pilots lack the know-how gained by United States fliers in World War II. Radar equipment, captured from the Germans, is good, but production of such technical equipment in Russia is slow. Quality of plane production, other than jet, is believed to be inferior to western standards.

Over-all, the evidence is that Russia's Air Force must be considered able to do anything to the United States that the United States Air Force is able to do to Russia. When Russia gets an adequate stock pile of atom bombs, in the opinion of qualified experts in Great Britain and United States, this country's advantage in the air is likely to be gone.

Mr. LANGER. Mr. President, can the distinguished Senator from Arizona tell us whether, in the bill as covered by the conference report, there is any limitation as to profits of any of the companies engaged in manufacturing for the national defense?

Mr. HAYDEN. There is a general statute, of which the Senator is well aware, providing for the renegotiation of all construction contracts. All we do in an appropriation bill is not to legislate with respect to the type of contract. We provide the money for it, but there is a general renegotiation act that is on the statute books.

Mr. LANGER. But aside from the Renegotiation Act, there is no limit as to the percentage of profits that any one of the companies may make, is there?

Mr. HAYDEN. I have never seen any limitation of that kind in any of our annual appropriation bills.

Mr. CORDON. Mr. President, I did not sign the conference report, although I was a member of the conference. I feel that it is the duty of one selected to sit in conference to represent, first, the viewpoint of the House or the Senate, as the case may be, which appoints him; second, to recognize that all law is compromise, and to reach a compromise decision wherever it can reasonably be done. Consequently, I feel that my action in this instance justifies my making a short statement as to my reason for taking the action I did.

Mr. President, let me say at the outset that nothing I say is intended to be critical either of the conferees on the part of the Senate or of those on the part of the House. Both sides labored diligently. Both sides had firm and fixed views, and sought to maintain them. The final concession of my colleagues, while in effect an abject surrender of the Senate's position on the bill, was nevertheless from their viewpoint the thing to do under the circumstances then existing. I have no criticism because their views and mine were not in accord.

I want to say, Mr. President, that in this instance I could not join with them in their decision, because, to my mind, it was not only a complete surrender of the Senate's rights in legislation, but it was—and this is vastly more important—a repudiation of all we have sought to do in the unification of our armed services and the building of a single national defense establishment. Last year we passed the basic framework for unification. This year we strengthened that framework. Last year there were differences of opinion expressed before the Appropriations Committee as to what amount of money should be appropriated and for what purpose. This year there was such difference of opinion expressed. To the contrary, at one of the earliest meetings of the Senate Appropriations Committee there were present the heads of all the services—the Secretary of National Defense, the Secretaries of the Army, Air Force, and Navy—and the Secretary of Defense inquired of all those present representing the national defense establishment, "Are you all in accord with this budget? If not, now is the time to say so." There was no objection registered, Mr. President. I therefore think that not only were we authorized to conclude but, in my humble opinion, we were required to conclude that in the unification and coordination program agreement had been reached for the creation of a single over-all Military Establishment; that there was agreement as to what the component parts should be; that there was agreement as to how much money should be spent this year, and how much contract authority was needed this year in order to implement the basic-defense program. That was all before the committee. The committee acted upon that testimony, and there was no testimony adverse to it. It adopted the program as it was given to it. It made certain provisions for a reduction in funds to be made if, as, and when those reductions could be made in connection with the use of the funds in instances of overlapping, in cases of duplication, and the like, which could be collected and result in savings. Otherwise the committee presented to the Senate the program of the defense establishment as submitted by the President of the United States.

Mr. President, to my mind the greatest duty a legislative organization can owe to the Executive whose obligation it is to implement the law is to give the Executive the vision and opportunity to do the job. So far as I am concerned, at this time the case is that of arm-chair strategists versus the defense establishment, and the former prevail.

I frankly say, Mr. President, that I do not know whether we need a 48-group air force, a 58-group air force, a 70-group air force, or a 370-group air force, and I undertake to say that there is no Senator who does know, and there is no Member of the House who does know. It is a highly intricate proposition. We have an Air Force, an Army, a Marine Corps, and a Navy. An integration of those activities, so as to make the greatest possible use of the military establishment, necessitated the bringing about of unification. At the first opportunity the Senate had to back up its own bill, it repudiated it. For that reason, Mr. President, I cannot support the conference report.

Mr. GURNEY. Mr. President, I am one of the conferees who sat for weeks with the House conferees, representing the Senate version of the bill, which provided for approximately $741,000,000 less than did the House version. I should have been much more pleased if the conference had been able to adopt the Senate version of the bill. I say that because I personally believe we would better defend the Nation if we would postpone buying the present type of airplanes and keep our money in the bank. If we get into trouble, we can buy more modern, faster, and more advanced types of airplanes and depend upon our American productive capacity to turn them out. In any war we might possibly get into, if we were to get into trouble at this moment, we would not be starting off with any inferior-type planes, because I think our planes at the moment are equal to or better than the planes of any other nation in the world. I believe we have enough of them so that we can properly defend the United States. I think having money in the bank, or money unexpended, thereby decreasing the load on the taxpayers, would have been the better course to follow.

Nevertheless, as between the House and the Senate—and the House certainly showed how it stood by its vote of 300 to 1, or 300 to 0, whichever it was—it is merely a squabble between the two Houses of the Congress. When it comes to the point when Congress is about to adjourn I think it is better to agree on the larger figure, because I believe Congress and the people of the United States want to show to the world that when the defense of our country and the things for which we stand are in the balance, both factions, if there are factions when it comes to national defense, are on the side of unity, on the side of those who believe we will throw every ounce of our resources into a fight to maintain the principles for which we have fought in many wars.

Therefore, Mr. President, I was one of those who signed the report, and I recommend its adoption.

The VICE PRESIDENT. The question in on agreeing to the conference report.

The report was agreed to.

The VICE PRESIDENT laid before the Senate a message from the House of Representatives announcing its action on certain amendments of the Senate to House bill 4146, which was read as follows:

IN THE HOUSE OF REPRESENTATIVES, U. S.,
October 18, 1939.

Resolved, That the House agrees to Senate amendment No. 99 to the bill (H. R. 4146)

making appropriations for the National Security Council, the National Security Resources Board, and for military functions administered by the National Military Establishment for the fiscal year ending June 30, 1950, and for other purposes, with an amendment as follows: In lieu of the sum stated in line 15 of said amendment insert "$100,000,000."

Mr. HAYDEN. Mr. President, I move that the Senate concur in the amendment of the House to the amendment of the Senate No. 99.

The motion was agreed to.

LEGISLATIVE PROGRAM

Mr. LUCAS. Mr. President——

The VICE PRESIDENT. The Senator from Oregon has the floor.

Mr. LUCAS. Will the Senator yield for an announcement?

Mr. MORSE. I yield.

Mr. LUCAS. Before Senators leave, and before the Senator from Georgia moves the consideration of House bill 6301, I should like to advise Senators that we are going to proceed to a call of the calendar. We will first have a roll call. There are a few bills which came on the calendar yesterday with no reports, and we could not take them up under the rule, but I think we may take them up today. So we will have a call of the calendar before we adjourn, but it will be very short.

I do not believe we will have a night session, in view of the fact that the basing-point arguments have all terminated and action on the conference report has been postponed. It does not look as if any Senator desires to talk long on any conference reports or bills. Consequently the Senate will probably get away this evening at about 6 o'clock.

The Army bill has been agreed to, and it is now in the House. I am advised that the House will consider it the first thing tomorrow, and it will come to the Senate from the House. Then we will proceed to consider the conference report on the agricultural bill. There is another conference report to be considered, on the wheat-agreement measure, which should not take much time. The rural telephone bill conference report is ready to be taken up almost any time, as well as the minimum-wage bill conference report.

It seems to me we should conclude the session by tomorrow evening, if we do not run into too lengthy discussion of the nominations which the President has sent to the Senate, and I understand that the discussion will not be long. I hope at least that the session will conclude tomorrow night.

Mr. WHERRY. Mr. President, will the Senator from Oregon yield?

Mr. MORSE. Protecting my right, I yield.

Mr. WHERRY. I wish to ask the majority leader, in view of the announcement he has made, if he does not also mean that if it is necessary to have a night session tomorrow night there will be a night session in order to complete the work if possible.

Mr. LUCAS. The Senator states the fact correctly.

PARITY IN AWARDS OF DISABILITY COMPENSATION

Mr. GEORGE. Mr. President, I report favorably from the Committee on Finance the bill (H. R. 6301) to provide for parity in awards of disability compensation, and ask for its immediate consideration.

The VICE PRESIDENT. The clerk will state the bill by title.

The LEGISLATIVE CLERK. A bill (H. R. 6301) to provide for parity in awards of disability compensation, and for other purposes.

Mr. GEORGE. Mr. President, this is a bill which passed the House this morning, for the purpose of correcting what is a typographical error in the omnibus pension bill which we passed a few days ago. It does not change the meaning or sense of the bill, but it does, by correcting this error, include a group of totally disabled and partially disabled veterans of World War I whose disabilities were service-connected. It protects their rights.

The VICE PRESIDENT. Is there objection to the present consideration of the bill?

There being no objection, the bill was considered, ordered to a third reading, read the third time, and passed.

SECOND SUPPLEMENTAL APPROPRIATIONS

Mr. McKELLAR. Mr. President, I move that the Senate proceed to the consideration of House bill 6427, the supplemental appropriation bill for 1950.

The VICE PRESIDENT. The clerk will state the bill by title.

The LEGISLATIVE CLERK. A bill (H. R. 6427) making supplemental appropriations for the fiscal year ending June 30, 1950, and for other purposes.

The VICE PRESIDENT. The question is on agreeing to the motion of the Senator from Tennessee.

The motion was agreed to, and the Senate proceeded to consider the bill (H. R. 6427) making supplemental appropriations for the fiscal year ending June 30, 1950, and for other purposes, which had been reported from the Committee on Appropriations, with amendments.

Mr. McKELLAR. Mr. President, I ask unanimous consent that the formal reading of the bill be dispensed with, that it be read for amendment, and that amendments of the committee be first considered.

The VICE PRESIDENT. Without objection, it is so ordered, and the clerk will state the amendments of the Committee on Appropriations.

The first amendment of the Committee on Appropriations was, under the heading "Title I—Legislative Branch," on page 1, after line 8, to insert:

SENATE

For payment to Carolin H. Miller, widow of Bert H. Miller, late a Senator from the State of Idaho, $12,500.

The amendment was agreed to.

The next amendment was, at the top of page 2, to insert:

CONTINGENT EXPENSES OF THE SENATE

Joint Committee on the Economic Report: For an additional amount for salaries and expenses of the Joint Committee on the Economic Report, $22,360.

The amendment was agreed to.

The next amendment was, on page 2, after line 12, to insert:

INCREASED PAY FOR LEGISLATIVE EMPLOYEES

That (a) each officer or employee in or under the legislative branch of the Government (other than an employee in the office of a Senator) whose rate of compensation is increased by section 5 of the Federal Employees Pay Act of 1946 shall be paid additional compensation at the rate of 5 percent of the aggregate rate of his basic compensation and the rate of the additional compensation received by him under sections 501 and 502 of the Federal Employees Pay Act of 1945, as amended, and section 301 of the Postal Rate Revision and Federal Employees Salary Act of 1948.

(b) The provisions of section 603 (b) of the Federal Employees Pay Act of 1945, as amended, section 7 (b) of the Federal Employees Pay Act of 1946, as amended, and section 303 (c) of the Postal Rate Revision and Federal Employees Salary Act of 1948 shall not apply to officers and employees subject to the provisions of this section or to employees in the offices of Senators, but (except as provided in subsection (d)) no such officer or employee shall, by reason of any provision of such acts or of this section be paid with respect to any pay period basic compensation, or basic compensation plus additional compensation, at a rate in excess of $10,846 per annum.

(c) (1) The basic compensation of the administrative assistant to a Senator shall be charged against the aggregate amount authorized to be paid for clerical assistance and messenger service in the office of such Senator.

(2) The aggregate amount of the basic compensation authorized to be paid for clerical assistance and messenger service in the office of each Senator is hereby increased by $11,520.

(3) The second proviso in the paragraph relating to the authority of Senators to rearrange the basic salaries of employees in their respective offices, which appears under the heading "Clerical assistance to Senators" in the Legislative Branch Appropriation Act, 1947 (60 Stat. 390; U. S. C., title 2, sec. 60f), is amended to read as follows: "*Provided further*, That no salary shall be fixed under this paragraph at a basic rate of more than $5,280 per annum, except that the salary of one employee, other than the administrative assistant, in the office of each Senator may be fixed at a basic rate of not more than $6,720 per annum and the salary of the administrative assistant to each Senator may be fixed at a basic rate of not more than $8,400 per annum".

(d) The rates of basic compensation of each of the elected officers of the Senate and the House of Representatives (not including the presiding officers of the two Houses) are hereby increased by 5 percent.

(e) This section shall take effect on the first day of the first month which begins after the date of its enactment.

The amendment was agreed to.

The next amendment was, on page 4, after line 12, to insert:

ARCHITECT OF THE CAPITOL

CAPITOL BUILDINGS AND GROUNDS

Changes and improvements, Capitol power plant: Toward carrying out the changes and improvements authorized by H. R. 6281, $950,000, to be expended by the Architect of the Capitol under the direction of the House Office Building Commission: *Provided*, That

the availability of this appropriation is contingent upon the enactment into law of said H. R. 6281.

The amendment was agreed to.

The next amendment was, under the heading "Funds appropriated to the President—mutual defense assistance," on page 6, after line 2, to insert:

ASSISTANCE TO THE REPUBLIC OF KOREA

For expenses necessary to continue assistance to the Republic of Korea during the period October 15, 1949, to February 1, 1950, at the same rate and under the same terms and conditions as in the fiscal year 1949, pending the enactment of legislation outlining the terms and conditions under which further assistance is to be rendered, $30,000,000: *Provided*, That all obligations incurred during the period between October 15, 1949, and the date of enactment of this act in anticipation of such appropriations and authority are hereby ratified and confirmed if in accordance with the terms thereof: *Provided further*, That this appropriation shall be consolidated and merged with the appropriation for economic assistance to the Republic of Korea made by Public Law 343, approved October 10, 1949, and such consolidated appropriation may be used during the period October 15, 1949, to February 1, 1950: *Provided further*, That not to exceed $675,000 of such consolidated appropriation shall be available for administrative expenses during such period.

The amendment was agreed to.

The next amendment was, under the heading "Independent offices—General Services Administration—Public Buildings Administration," on page 8, after line 9, to strike out:

For expenses necessary for the acquisition of sites and the preparation of drawings and specifications for Federal public building projects outside the District of Columbia, as authorized and provided for by title I of the act of June 16, 1949 (Public Law 105), and by the act of May 25, 1926 (44 Stat. 630), as amended, including personal services in the District of Columbia, $12,000,000, to remain available until expended: *Provided*, That not to exceed $600,000 of the foregoing appropriation shall be available for administrative expenses.

Mr. HOLLAND. Mr. President, there is one item on which I desire to be heard, the item on page 8, lines 10 to 19. I ask the distinguished chairman of the Committee on Appropriations if it is agreeable to him to let that item be passed over until we have completed the other committee amendments.

Mr. McKELLAR. I have no objection.

The VICE PRESIDENT. The amendment will be passed over.

Mr. WHERRY. Mr. President, I want to bring up a small amendment before the bill is passed. If I may do so, I shall appreciate it.

Mr. McKELLAR. Certainly.

The VICE PRESIDENT. Is it an amendment to an amendment that is in the bill?

Mr. WHERRY. No.

Mr. McKELLAR. After the committee amendments have been agreed to we will take it up.

The VICE PRESIDENT. The clerk will proceed to state the amendments of the committee.

The next amendment was, on page 8, after line 24, to strike out:

For the construction, without regard to section 3709 of the Revised Statutes, of a temporary office building on Government-owned land at Suitland, Md., including cafeteria facilities and the installation or extension of utilities as may be necessary, and for the administration, protection, and maintenance of said building during fiscal year 1950, $3,500,000.

The amendment was agreed to.

Mr. O'CONOR. Mr. President, in connection with the pending bill and particularly with reference to the committee amendment striking out the provision for the construction of a building at Suitland, Md., I ask unanimous consent to have printed in the RECORD a brief statement prepared by me.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT BY SENATOR O'CONOR

Taking of a national census is a mammoth job. It must be skillfully organized and, even at its best, it will be an expensive undertaking, requiring the utmost supervision for an efficient job. At its worst, it could be infinitely more expensive than need be.

The House Appropriations Committee, after a thorough study of the matter, came to the conclusion that the proposed establishment of part of the Census force away from its present location at Suitland, Md., and I quote from the report, "was not an economical and practical solution of the problem." And it would ignore the fact that recent reductions in force have put a big dent in employment in the suburban area of Maryland.

It was for this reason that the House Appropriations Committee reported the bill with an appropriation of $3,500,000 for construction of a building at Suitland, Md., to house the additional employees needed.

Altogether, census officials advise, there would be necessary approximately 8,000 additional employees, or possibly as many as 8,500, particularly if it were necessary to divide the force and house some of them in another location.

As previously mentioned, the headquarters of the entire Census Bureau are now established at Suitland, Md. Two permanent buildings there afford office space for approximately 2,500 workers. All the central files are there, all the permanent facilities for tabulating returns are there, all their trained employees, many of whom would be called upon for supervisory work, are located at Suitland.

In preparation for the great number of trained card-punch operators who would be required for the census tabulation, a training program was established some time ago in the District of Columbia schools. All the persons who have had the benefit of this training and who would thereby be particularly suitable for census work, are available for work in Suitland, and, of course, would have to be transferred or from a new training program hurriedly set up to establish the needed reservoir of trained operators.

Where the entire operation could be concentrated most effectively and inexpensively at Suitland, establishment of a portion of the work and workers elsewhere would mean that at least several hundred of the supervisors and technical people would have to be sent there. They would either be separated from their families for long periods and would add to the housing troubles in another area.

There is, so the census people advise, a plentiful supply of the types of personnel necessary on hand in the Suitland area. There is, moreover, a definite advantage, they point out, in having all the work done in one place, under central supervision, without the need of moving key personnel back and forth.

It is emphasized additionally that the relatively short period of time involved, with peak operations lasting only six to twelve months, would hardly justify the movement of personnel and the tremendous shifting of office facilities which operation in a new area would require, with its resultant inconvenience and disruption of the work of the Veterans' Administration there.

For all these reasons, it would seem that maximum efficiency of operation and a minimum of expense would be insured by concentrating all the census work at Suitland, and I urge that this be the decision made.

The next amendment was, on page 9, after line 6, to insert:

Salaries and expenses, public buildings and grounds outside the District of Columbia: For an additional amount for "Salaries and expenses, public buildings and grounds outside the District of Columbia," without regard to section 322 of the act of June 30, 1932 (40 U. S. C. 278a), as amended, $870,000.

The amendment was agreed to.

The next amendment was, under the subhead "Bureau of Community Facilities," on page 9, line 20, after the numerals "1955", to strike out "$1,000,000" and insert "$2,000,000"; in line 21, after the word "exceed", to strike out "$125,000" and insert "$250,000"; and on page 10, line 1, after the word "exceed", to strike out "$4,000,000" and insert "$8,000,000."

The amendment was agreed to.

The next amendment was, on page 10, line 20, after the word "agencies", to strike out "$7,000,000" and insert "$7,500,000"; and in line 21, after the word "exceed", to strike out "$100,000" and insert "$250,000."

The amendment was agreed to.

The next amendment was, under the heading "Department of Agriculture—Rural Electrification Administration—Salaries and expenses," on page 13, line 12, after the word "expenses", to strike out "$600,000" and insert "$700,000."

The amendment was agreed to.

The next amendment was, under the heading "Department of Defense—Department of the Air Force—Acquisition and construction of real property," on page 17, after line 16, to insert:

For an additional amount for "acquisition and construction of real property," to enable the Secretary of the Air Force to carry out the purposes of the Act of March 30, 1949 (Public Law 30, 81st Cong.), $17,000,000, to be available until expended, and in addition thereto, the Secretary of the Air Force is authorized to enter into contracts for the purposes of said Act of March 30, 1949, in an amount not to exceed $33,000,000.

The amendment was agreed to.

The next amendment was, under the heading "Department of the Interior—Bureau of Reclamation—Reclamation fund," on page 18, after line 3, to insert:

The following sums are appropriated out of the reclamation fund created by the act of June 17, 1902, as follows.

The amendment was agreed to.

The next amendment was, on page 18, after line 3, after the amendment just above stated, to strike out:

GENERAL OFFICES

Salaries and expenses (other than project offices): For an additional amount, fiscal year 1949, for "Salaries and expenses (other than

project offices)", for obligations legally incurred but not otherwise provided for, $8,581.68.

The amendment was agreed to.

The next amendment was, on page 18, after line 12, to insert:

CONSTRUCTION

San Luis Valley project, Colorado, $250,000.

The amendment was agreed to.

The next amendment was, on page 18, after line 17, to insert:

GENERAL FUND, UTILIZATION OF SALT WATER

For expenses necessary for conducting with the cooperation of other Federal agencies and through contracts with private firms and universities, laboratory investigations and pilot-plant tests for development of economically feasible means of utilizing salt water for irrigation and municipal purposes, $150,000, to remain available until expended.

The amendment was agreed to.

The next amendment was, at the top of page 19, to strike out:

NATIONAL PARK SERVICE

MISSISSIPPI RIVER PARKWAY

For expenses necessary for a survey to determine the feasibility of constructing a national parkway along the route of the Mississippi River, as authorized by the act approved August 24, 1949 (Public Law 262), including personal services in the District of Columbia, purchase of not to exceed five passenger motor vehicles, and printing and binding, $150,000, to remain available until June 30, 1951.

Mr. O'MAHONEY. Mr. President, I hope this committee amendment may be disagreed to. The Committee on Interior and Insular Affairs at this session of Congress passed on the Mississippi Parkway authorization bill without any division. The bill was passed by both Houses of the Congress and has the support of Senators and Representatives from States along the entire route of the Mississippi River.

I am a member of the Committee on Appropriations, but unfortunately, because of the pressure of other business, I was not present at the time this amendment was considered, so that I did not have the opportunity of explaining why the provision should remain in the bill. I understand from the chairman of the committee that the provision lost by a very narrow margin.

Mr. McKELLAR. It lost by 5 to 3. I do not care to explain how Senators voted.

Mr. O'MAHONEY. That is not necessary.

Mr. McKELLAR. The chairman is not as interested in the amendment as he might be.

Mr. O'MAHONEY. I have understood from various sources that the chairman of the committee has supported the action of the House committee, and that would mean, I take it, that he would agree with what I am seeking to do now.

Mr. McKELLAR. That is correct.

Mr. O'MAHONEY. Let me say that the report of the Committee on Interior and Insular Affairs has recommended, and I understand this will be the policy of the executive branch, that the plans be so drafted as to provide income by way of tolls. Toll ways and toll parkways all over the United States have been more than successful in bringing in revenue to pay for construction of parkways of this kind. I sincerely hope that the committee amendment may be rejected.

Mr. FULBRIGHT. Mr. President, is this to be passed over as the amendment was a while ago?

Mr. McKELLAR. No. I think we had better pass on it now.

Mr. FULBRIGHT. I wish to support the position of the Senator from Wyoming. The bill authorizing this survey passed, merely authorizing the use of the money to determine whether or not the parkway should be built, and where. As the Senator will notice, the amount was $150,000, as carried in the provision as the bill passed the House. The budget estimate for this item was $250,000, so it has already been cut nearly 50 percent from the amount allowed by the Bureau of the Budget. I hope the Senate will reject the amendment.

The VICE PRESIDENT. The question is on agreeing to the committee amendment on page 19, lines 1 through 10.

The amendment was rejected.

The VICE PRESIDENT. The Secretary will state the next committee amendment.

The next amendment was, on page 19, after line 10, to insert:

NATIONAL PARK SERVICE

PHYSICAL IMPROVEMENTS

For an additional amount for "Physical improvements, National Park Service," to remain available until expended, $175,000; and appropriations under this head shall be available for construction of a swimming pool, including buildings and other necessary appurtenances, in Fort Stanton Park, District of Columbia.

The amendment was agreed to.

The next amendment was, on page 19, after line 18, to insert:

Appropriations available to the National Park Service for the fiscal year 1950 shall be available for the purchase of five passenger motor vehicles in addition to the number specified in the Interior Department Appropriation Act, 1950.

The amendment was agreed to.

The next amendment was, under the subhead "Fish and Wildlife Service—Salaries and expenses," on page 20, line 9, after the word "fishes", to strike out "$167,000" and insert "$101,000."

The amendment was agreed to.

The next amendment was, on page 20, after line 11, to strike out:

Funds appropriated for the fiscal year ending June 30, 1950, to the Fish and Wildlife Service shall be available for the purchase of five passenger motor vehicles in addition to those authorized in the Interior Department Appropriation Act, 1950.

The amendment was agreed to.

The next amendment was, under the heading "Post Office Department—Office of the Fourth Assistant Postmaster General," on page 22, line 22, after the word "service," to strike out "$5,000,000" and insert "$7,700,000."

The amendment was agreed to.

The VICE PRESIDENT. That completes the committee amendments, except the one passed over on page 8, which will be stated.

The LEGISLATIVE CLERK. On page 8, after line 9, it is proposed to strike out:

For expenses necessary for the acquisition of sites and the preparation of drawings and specifications for Federal public building projects outside the District of Columbia, as authorized and provided for by title I of the act of June 16, 1949 (Public Law 105), and by the act of May 25, 1926 (44 Stat. 630), as amended, including personal services in the District of Columbia, $12,000,000, to remain available until expended: *Provided*, That not to exceed $600,000 of the foregoing appropriation shall be available for administrative expenses.

Mr. HOLLAND. Mr. President, I hope Senators will give attention to the committee amendment on page 8. The House language would appropriate $12,000,000, to remain available until expended, for the acquisition of sites and the preparation of drawings and specifications for Federal public building projects outside the District of Columbia, as authorized and provided for by title I of the Act of June 16, 1949 (Public Law 105), which Congress passed in June, and by a little tag-end of a prior authorization of 1926, which has not yet been appropriated and realized.

Mr. President, I wanted to call to the attention of the Senate the fact that this is the only measure under which we can have any planning, any acquisition of sites, for Federal buildings outside the District of Columbia, to constitute the backlog or a list of plans available for construction in the event we reach a time when we can engage in some public works.

Mr. President, I am told by the secretary of the committee that only seven of the 21 members of the Appropriations Committee could be present at the time this particular action was taken, and that those present were divided upon this action.

I have here the supplemental budget request of the President, which came in in July, just a few weeks after the passage of the act I just referred to.

I close my brief remarks by calling to the attention of the Senate the fact that even at this time $82,000,000 of public works are actually under construction in the District of Columbia and in Bethesda, and at the same time there are only two Federal buildings which are being added to materially outside the District of Columbia, one building at Nashville, now under construction, and an additional story on the post-office building in Los Angeles.

It seems to me we would be taking a backward step and not at all going forward with the program of the Senate and of the House under Public Law 105, if we were to strike out this appropriation, and I hope the committee amendment may be rejected.

The VICE PRESIDENT. The question is on agreeing to the committee amendment on page 8, beginning in line 10 through line 19. [Putting the question.] The "noes" seem to have it.

Mr. KNOWLAND. Mr. President, I ask for a division.

The VICE PRESIDENT. A division is called for.

Mr. KNOWLAND. Mr. President, I ask for the yeas and nays.

Mr. WHERRY. Mr. President, if the yeas and nays are to be had on this amendment, I think we should have a quorum call.

The VICE PRESIDENT. Let it be first ascertained whether a sufficient number of Senators second the request for the yeas and nays. Is the request for the yeas and nays sufficiently seconded?

The yeas and nays were not ordered.

Mr. KNOWLAND. I suggest the absence of a quorum.

The VICE PRESIDENT. The Secretary will call the roll.

The legislative clerk proceeded to call the roll.

Mr. KNOWLAND. Mr. President——

The VICE PRESIDENT. For what purpose does the Senator rise?

Mr. KNOWLAND. I ask unanimous consent that further proceedings under the quorum call be dispensed with.

The VICE PRESIDENT. Is there objection? The Chair hears none, and it is so ordered.

The question is on agreeing to the committee amendment on page 8, after line 9.

Mr. KNOWLAND. Mr. President, before the vote is taken, let me say that I suggested the absence of a quorum so that members of the Appropriations Committee might be present.

If the committee amendment is not adopted, $12,000,000 will be added to the bill. It is the feeling of at least the majority of those who voted in committee yesterday that this is an item which does not need to be in the third supplemental appropriation bill this year, and could be presented at the beginning of the next session of Congress with more adequate testimony than was presented to us.

Mr. HOLLAND. Mr. President, since there are now Senators present who were not in the Chamber when the subject was previously discussed, let me say briefly that this is a first appropriation of $12,000,000 on a $40,000,000 authorization which was made by this same Congress back in June. A supplemental budget item, which I hold in my hand, came in in July. It provides for the beginning of the program of site acquisition for post offices, customs houses, quarantine stations, and Public Health Service hospitals. We are far behind with them. We have had no building in any of those fields since before the war.

I merely wish to call attention briefly to the fact that at present $82,000,000 worth of Federal buildings are being constructed in the District of Columbia and nearby Bethesda, whereas we are constructing only two Federal buildings outside the District, one at Nashville, and an additional story on the post office at Los Angeles.

Mr. KNOWLAND. Mr. President, will the Senator yield?

Mr. HOLLAND. I yield.

Mr. KNOWLAND. Does the Senator refer to the bill which provides that there shall be one public building in each of the 435 congressional districts?

Mr. HOLLAND. In effect, the $40,000,000 authorization act provides that in addition to some suspended projects which have not yet been carried out under former authorizations, a sufficient number of additional sites are to be acquired for post offices so that there will be one post office site in each of the congressional districts throughout the Nation.

Furthermore, it provides for the much needed acquisition of some customs house sites, United States Public Health hospital sites, and quarantine sites. This work has been in the doldrums since before the war started. This is by way of beginning to create a small backlog of badly needed Federal construction. It seems to me that the appropriation should be in the bill.

Mr. FERGUSON. Mr. President, the Senator from Michigan moved in committee that this item be stricken from the bill. He certainly feels that at this late date in the session it should not be included in this bill. It should go into the regular appropriation bill.

I ask unanimous consent to have printed in the RECORD at this point as a part of my remarks the justification appearing on pages 25 and 26 of the committee slip sheets, which clearly indicates that there is no justification for these sites.

There being no objection, the matter was ordered to be printed in the RECORD, as follows:

SITES AND PLANNING, PUBLIC BUILDINGS OUTSIDE THE DISTRICT OF COLUMBIA

For expenses necessary for the acquisition of sites and the preparation of drawings and specifications for Federal public building projects outside the District of Columbia, as authorized and provided for by title I of the act of June 16, 1949 (Public Law 105), and by the act of May 25, 1926 (44 Stat. 630), as amended, including personal services in the District of Columbia, $12,000,000, to remain available until expended.

HOUSE ACTION

The House approved the full amount of the foregoing estimate of $12,000,000 but placed the following limitation on administrative expenses: ": *Provided*, That not to exceed $600,000 of the foregoing appropriation shall be available for administrative expenses."

HOUSE REPORT

"The committee is including in the bill a budget estimate of $12,000,000 for the purpose of carrying into effect the provisions of title I of Public Law 105 of the Eighty-first Congress. Title I of the act authorizes an appropriation of $40,000,000 for the acquisition of sites and preparation of plans for approximately 375 new projects and for the completion of the acquisition of sites for approximately 200 previously authorized building projects which were deferred because of the recent war. The amount contained in the bill is believed to be sufficient to carry on the program during this fiscal year."

HOUSE DOCUMENT 259

Title I, Public Law 105, authorizes the appropriation of $40,000,000 for the acquisition of sites and the preparation of plans and specifications for public buildings projects outside the District of Columbia.

Provision is made for preconstruction activities only with the intent of accumulating a shelf of projects which could be placed under construction at such time as the Congress may deem appropriate. Additional legislation will be required before any of the projects can be placed under construction.

It is contemplated that the $40,000,000 authorized will cover acquisition of sites and preparation of plans for approximately 375 new projects and will complete site acquisition and preparation of plans for approximately 200 previously authorized building projects which were deferred in 1940 in the interest of national defense.

The initial work on the program during 1950 will require an estimated $12,000,000 of which approximately three-fourths will be required for site purchase.

JUSTIFICATION

Title I of Public Law 105, approved June 16, 1949, entitled "Public Buildings Act of 1949," authorizes the appropriation of $40,000,000 for the acquisition of sites, for making investigations and studies, and for preparation of drawings and specifications for public-buildings projects outside the District of Columbia.

The act authorizes preconstruction activities only. It would provide a shelf of projects which could be placed under construction at such time as conditions may warrant and the Congress may deem appropriate. Additional legislation will be required before any of the projects can be placed under construction.

The last public-buildings program authorized by the Congress was approved on June 1, 1938. During World War II, and in the national defense period preceding it, construction was limited to the provision of buildings essential to the war effort. Consequently, except for a very few emergent projects, no public buildings have been constructed outside metropolitan Washington for almost 9 years. During this time the population of the country has increased approximately 11 percent and there has been considerable expansion in post-office functions, particularly with respect to parcel post. The Federal space problem has been aggravated further by extensive shifts of population. Conditions have also made it necessary to continue in use buildings that were obsolete long before the war although their operation and maintenance costs are disproportionately high.

When general public buildings construction was stopped in 1940, approximately 200 previously authorized projects were deferred in the interest of national defense. The act contemplates the completion of preconstruction work on these deferred projects and the acquisition of sites and preparation of drawings and specifications for approximately 375 new projects. Drawings and specifications for a new project cannot be developed until the site therefor has been acquired. Therefore, the initial work load for the fiscal year 1950 will involve the selection of sites followed, in turn, by the preparation of drawings and specifications in progressively increasing numbers as acquisition proceeds.

It is recommended that an appropriation of $12,000,000 be approved for the 1950 fiscal year to permit initiation of the program authorized by Public Law 105. Of this amount, it is estimated that $8,700,000 will be required for site acquisition and that $3,300,000 will be needed for the preparation of drawings and specifications.

Funds available for obligation

Appropriation or estimate	$12,000,000

OBLIGATIONS BY ACTIVITIES

1.	Site acquisition	$8,700,000
2.	Design	3,300,000
	Total obligations	12,000,000

OBLIGATIONS BY OBJECTS

02	Travel	$75,000
04	Communication services	3,000
06	Printing and reproduction	25,000
07	Other contractual services	2,932,000
	Services of other agencies	500,000
08	Supplies and materials	10,000
09	Equipment	30,000
10	Lands	8,425,000
	Total obligations	12,000,000

Mr. FERGUSON. If we have reached the point of legislating to furnish a site and a building in every congressional district, when some, I am sure, may require two buildings and some none, it indicates that all we are trying to do in Congress is to satisfy Members of Congress by providing public buildings in the respective districts.

Last year the Senate voted to try to save some expenditures. We did not build the Senate Office Building. I know, as other Senators know, that we need an office building, but we felt that the time had come when we could economize, at least upon that particular building.

Now, it is proposed to authorize the acquisition of sites. Once the sites are obtained, I cannot imagine any Congress stopping the erection of the buildings.

I am not saying that some of these buildings are not needed; but we should not enter into a wholesale program and determine that every congressional district must have a building. We should not say that every district must have something in the flood-control bill, and something in the reclamation bill. If we once establish that policy in Congress, there will be no limit to spending. I hope this item will not be placed back in the bill.

Mr. McKELLAR. Mr. President, if the Senator will read the language on page 25 of the committee sheets, he will find that this money is merely for the purpose of acquiring sites.

Mr. FERGUSON. That is exactly it; but once we acquire the sites, we must erect buildings. What is the use of the Government owning land and taking it off the tax rolls if we do not erect buildings?

Mr. McKELLAR. The Senator will recall that yesterday when we voted in committee I voted in favor of this provision, but I stand by the committee's action.

Mr. CAIN. Mr. President, I should like to suggest for the information of the Senate a point which has not previously been referred to, and that is that a public buildings site and acquisition planning bill was unanimously approved by the Senate in the Eightieth Congress. So far as I know—and I think I am correctly informed—the pending bill, to which we are addressing ourselves, is almost identical with the bill which had the unanimous support and approval of this body.

Mr. McKELLAR. The Senator is correct.

Mr. CAIN. Let me say to the Senator from Tennessee that I am interested in a remark made by the distinguished Senator from Michigan, who said that it seemed to him as though the bill were designed to provide at least one public building for each congressional district.

Unfortunately, but truly, the fact of the matter is that in every single congressional district in America there is a need for more than one public building of one kind or another. All of us on the Public Works Committee might wish that that were not the case, but because it is the case, and because we sought to anticipate the needs of the future, both Democrats and Republicans on the committee unanimously approved this legislation. We feel, as I know the chairman of the Appropriations Committee feels, that if we do not approve this legislation now by making available some appropriations, we are only delaying the day when a comparable bill to the one before us must be approved. A delay will mean much greater cost.

The VICE PRESIDENT. The question is on agreeing to the committee amendment.

Mr. FERGUSON. Mr. President, I think that certain language at the bottom of page 25 of the justification slip is very significant:

> Additional legislation will be required before any of the projects can be placed under construction.

Mr. CAIN. Mr. President, let me suggest that, if I understand the matter correctly, additional legislation, in terms of dollars to be appropriated, will be necessary, for these moneys are to be used only to acquire sites when they can be secured at a reasonable figure.

Mr. McKELLAR. That is correct.

Mr. CAIN. And for the designing of plans, against the day when perhaps we shall have what is known as a recession, or perhaps when we shall have more money to be made available for public buildings than is the case today.

Mr. McKELLAR. That is correct.

Mr. FERGUSON. Do I correctly understand the chairman of the committee to say now that buildings can be erected on any of these sites without further legislation?

Mr. McKELLAR. Oh, no; there must be legislation for the purpose. It depends on what we call "legislation."

Mr. FERGUSON. What does the Senator from Tennessee call "legislation"?

Mr. McKELLAR. There will have to be legislation authorizing it.

Mr. FERGUSON. But not appropriations made?

Mr. McKELLAR. And appropriations, too. Post offices cannot be built without appropriations.

Mr. CAIN. Mr. President, my understanding, as a member of the committee, is that after a site has been secured and after a plan for the building has been agreed upon and designed, it then will be necessary to authorize the construction of a specific item on a specific site. But it is obvious to all of us that no buildings can possibly be constructed anywhere until, first, a site has been secured and, second, a plan has been agreed upon.

The VICE PRESIDENT. The question is on agreeing to the committee amendment on page 8, after line 9, to strike out certain language.

The amendment was rejected.

The VICE PRESIDENT. There is another committee amendment to be considered. It will be stated at this time.

The LEGISLATIVE CLERK. On page 22, in line 22, under the heading "Office of the Fourth Assistant Postmaster General," it is proposed to strike out "$5,000,000" and insert "$7,700,000."

The VICE PRESIDENT. The question is on agreeing to the committee amendment.

The amendment was agreed to.

Mr. McKELLAR. Mr. President, I offer the amendment which I send to the desk and ask to have stated.

Mr. SALTONSTALL. Mr. President, I should like to ask a question of the chairman of the committee.

Mr. McKELLAR. Perhaps the amendment should be read first, if that is agreeable to the Senator from Massachusetts, or perhaps I should explain the amendment beforehand. As all of us recall, the House and the Senate have passed the bill and subsequently have adopted the conference report relating to the experimental wind tunnel, and that measure has been sent to the President. The committee has authorized me to offer this amendment, provided an estimate relative to that measure shall be submitted to us.

The estimate which has been received, instead of being in the authorized amount of $100,000,000, is in the amount of only $30,000,000, $6,000,000 of which is in cash and $24,000,000 is in contract authority. The committee has authorized me to offer the amendment, and it is a committee amendment. I now ask that the amendment be stated; and I add that the amendment is offered following the receipt of the budget estimate.

The VICE PRESIDENT. The amendment will be stated.

The LEGISLATIVE CLERK. On page 17, after line 16, it is proposed to insert the following:

> For an additional amount, subject to the enactment of S. 1267, Eighty-first Congress, for "acquisition and construction of real property," to enable the Secretary of the Air Force, subject to the approval of the Secretary of Defense, to carry out the purposes of S. 1267, Eighty-first Congress, $6,000,000, to be available until expended, and in addition thereto, the Secretary of the Air Force is authorized to enter into contracts for the purposes of S. 1267, in an amount not to exceed $24,000,000.

The VICE PRESIDENT. The question is on agreeing to the amendment of the committee.

Mr. SALTONSTALL. Mr. President, will the Senator yield?

Mr. McKELLAR. I yield.

Mr. SALTONSTALL. Is not this item included in the big appropriation bill which was passed?

Mr. McKELLAR. It was included in it, but the money has never actually been appropriated. This amendment is the appropriation for the item.

Mr. WHERRY. Mr. President, will the Senator yield for a question?

Mr. McKELLAR. I yield.

Mr. WHERRY. Is not the amendment offered at this time for the reason that previously the budget estimate had not been received?

Mr. McKELLAR. Yes; but now a budget estimate in the amount of $30,000,000 has been received.

The VICE PRESIDENT. The question is on agreeing to the committee amendment, on page 17, after line 16.

The amendment was agreed to.

Mr. McKELLAR. That completes the committee amendments, Mr. President.

The VICE PRESIDENT. The bill is open to further amendment.

Mr. SALTONSTALL. Mr. President, will the Senator yield for a further question?

Mr. McKELLAR. Certainly.

Mr. SALTONSTALL. The amendment which has just been adopted is the so-called wind-tunnel amendment, is it not?

Mr. McKELLAR. That is correct.

Mr. SALTONSTALL. On page 17 of the bill as printed is an amendment concerning radar screens. My question relates to radar screens, not to wind tunnels. Is this amendment now a part of the big appropriation bill?

Mr. McKELLAR. That amendment was put in the regular Military Establishment appropriation bill, and has been adopted. I shall move to strike out the language on page 17, between lines 17 and 24, both inclusive. I now so move, Mr. President.

Mr. WHERRY. Mr. President, will the Senator yield?

Mr. McKELLAR. I yield.

Mr. WHERRY. When the committee acted favorably on this amendment, it was with the understanding that if the wind-tunnel amendment were adopted as part of the military appropriation bill, this amendment would be stricken out. Is that not correct?

Mr. McKELLAR. Yes; it was with that understanding.

The VICE PRESIDENT. First, it will be necessary to reconsider the vote by which the committee amendment on page 17, in lines 17 to 24, was agreed to.

Mr. McKELLAR. Mr. President, I ask unanimous consent that the vote by which that committee amendment was agreed to be reconsidered.

The VICE PRESIDENT. Is there objection? Without objection, the vote by which the amendment on page 17 was agreed to is reconsidered.

The question now is on agreeing to the committee amendment on page 17, in lines 17 to 24.

The amendment was rejected.

Mr. McKELLAR. I thank the Chair.

The VICE PRESIDENT. The bill is open to further amendment.

Mr. McMAHON. Mr. President, I offer the amendment which I send to the desk and ask to have stated.

The VICE PRESIDENT. The amendment will be stated.

The LEGISLATIVE CLERK. On page 22, after line 22, it is proposed to insert:

STATE DEPARTMENT

For payment to the Government of Finland in settlement of claims arising out of the requisitioning of Finnish vessels by the United States, $5,500,000, together with interest thereon at 4 percent per annum from June 30, 1949, to the date of payment: *Provided*, That the funds made available by this paragraph shall be subject to the agreement of the Government of Finland that such payment shall constitute full satisfaction of obligations of the United States incident to the requisitioning of the following-named Finnish vessels in 1941 and 1942: *Aagot, Advance, Anja, Asta, Atlas II, Aurora, Delaware, Koura, Kurikka, Kuurtanes, Marisa Thorden, Olivia, Pandia, Saimaa,* and *Wipunen.*

Mr. McMAHON. Mr. President, the Foreign Relations Committee, through its chairman, the Senator from Texas [Mr. CONNALLY], authorized me to appear before the Appropriations Committee's subcommittee for the purpose of explaining why we had unanimously approved a joint resolution to pay the Finnish Government the sum of money set forth in the amendment, namely, $5,500,000.

After Pearl Harbor, there were 16 Finnish ships in our harbors. Under act of Congress, we seized those ships. The Government of Cuba seized one small ship, and later turned it over to us. Most of those ships were sunk during the war, in the service of the United States Government.

After the war ended, Finland signed a peace treaty with Russia and allied governments, the treaty providing that Finland would waive all claims of any kind on Russia or its allies. The United States refused to take advantage of that clause in the peace treaty, and specifically cabled the Finns, for whom we have a traditional affection, that we would not hide behind that clause of the treaty, but that we were open to negotiations leading to the settlement of their claim against us.

Those negotiations dragged on, until the Finns finally started suit in the Court of Claims for $12,000,000. Since the suit was begun, the claim has been settled by the Department of Justice for $5,500,000.

The Department of Justice and the State Department are very much in favor of this appropriation item.

Yesterday the Senate, during the call of the calendar, passed the authorizing joint resolution, which, as I have indicated, had been unanimously approved by the Foreign Relations Committee.

Mr. HAYDEN. Mr. President, will the Senator yield?

Mr. McMAHON. I yield to the Senator from Arizona.

Mr. HAYDEN. But at the time when this matter was under consideration by the Senate Committee on Appropriations, either the Senate had not passed the joint resolution or the Appropriations Committee did not know the joint resolution had been passed, so there was no authority for the Appropriations Committee to provide at that time for this appropriation. It is my understanding that, under the rule, a measure authorizing this amount of money having been passed by the Senate, the amendment is now in order to the appropriations bill.

Mr. McMAHON. I thank the Senator.

I may add that the money appropriated under this amendment probably will in large measure come back to the United States Treasury in the form of interest and principal payments on the World War I debt which Finland owes the United States, that debt being the only First World War debt, as all of us know only too well, which is being discharged.

I would regard, and I think the other members of the Foreign Relations Committee, particularly the chairman, would regard, favorable action by the Senate on this amendment, as an excellent gesture of good will to a grand little country that in the past few years the Communists have been trying their best to shove down the well, but without success.

Mr. FERGUSON. Mr. President, will the Senator yield?

Mr. McMAHON. I yield to the Senator from Michigan.

Mr. FERGUSON. I should merely like to have the RECORD clear on this item. Is it true that the matter is now before the Court of Claims?

Mr. McMAHON. It is true. The Finns filed a suit for $12,000,000. But since that time a settlement has been negotiated by the Department of Justice, in the amount of $5,500,000.

Mr. FERGUSON. I merely want to read one sentence from the letter of the Assistant Attorney General, Mr. H. G. Morrison, the letter being dated October 7, 1949, and being addressed to the Secretary of State:

> In the event the congressional action should set aside the defense asserted, or to be asserted, by the United States in the litigation now pending in the Court of Claims, it is the Department's view that the sum proposed in settlement would not be in excess of the probable judgment of the Court of Claims.

What is the defense, or what are the defenses, under the treaty?

Mr. McMAHON. Does he speak specifically about the defense being under the treaty?

Mr. FERGUSON. Yes; in one other sentence, he does.

Mr. McMAHON. The defense under the treaty is, as I have indicated, that Finland waived her right to claim damages for any reason, when they signed the treaty, which Russia dictated. As I understand, the State Department, for reasons which I am sure are sufficiently obvious, sent a cable to the Government of Finland saying, "We do not intend to take advantage of this kind of business." That was done I believe because we rightfully assumed it had been done under great pressure, and we simply would not take advantage of it.

There is another defense. When we took the ships, they were subject, if they put to sea, to being captured by the British, or by one of the other belligerent nations, and therefore they had less value than, let us say, if they had been flying the flag of Argentina, a neutral, in which event they could have plied the seas without any trouble whatever. But, as I understand from the witnesses who testified before the Foreign Relations Committee, the Department of Justice has agreed on $5,500,000 as a fair settlement.

Mr. FERGUSON. Then, as I understand, the Senator indicates that cooperation under the treaty with Russia, the United States, Finland, and other countries, was at least obtained by coercion on the part of the Russian Government, and therefore we, in equity and good conscience, believed that this particular provision of the treaty should not be enforced or used as a defense in the Court of Claims. That is what it amounts to, is it not?

Mr. McMAHON. That is correct. I may say to the Senator, I think it is a perfect defense to this claim. But the State Department is specifically desirous of waiving the defense and of settling the claim on an equitable basis.

Mr. FERGUSON. So when Congress passes the appropriation, if it does pass it, we shall be saying in effect that, in equity and good conscience, we do not believe the provision of the treaty should

be enforced, and it is the same as repealing that provision of the treaty, is it not?

Mr. McMAHON. That is correct.

The VICE PRESIDENT. The question is on agreeing to the amendment offered by the Senator from Connecticut [Mr. McMAHON].

The amendment was agreed to.

Mr. FERGUSON. Mr. President, I desire to ask the Senator from Connecticut another question. Is there a suit against the United States Government by the private owners of the vessels? If so, is there any assurance that, if we pay the money to the Government of Finland, the claim against the United States Government by the private shipowners will be liquidated or satisfied or withdrawn.

Mr. McMAHON. The Government of Finland has, I understand, taken an assignment of any rights the private owners may have. Of course we cannot be required to pay twice for the same ships. After all, let us assume that such an unlikely event should occur, that they should go ahead with their law suit. If that such occur, the Congress would not appropriate the money twice.

Mr. FERGUSON. In order that the record may be clear, it is the Senator's opinion, is it not, that when the settlement is made, the assignment should be examined so that we shall get a full satisfaction of all claims, whether it be on the part of the Government or on the part of the private shipowners?

Mr. McMAHON. It is my understanding we are paying for the ships. The ships are specifically named in the appropriation, and when they are paid for that ends it. They are only to be paid for once.

Mr. FERGUSON. I merely wanted to have the record clear, so that those who may pay over the money will obtain proper satisfaction from all parties concerned, and from anyone who may be in any way interested, in order that there may be a complete satisfaction.

Mr. McMAHON. That is correct.

Mr. BRIDGES. Mr. President, I send to the desk an amendment, and ask that it be stated.

The VICE PRESIDENT. The clerk will state the amendment.

The LEGISLATIVE CLERK. On page 2, after line 4, it is proposed to add a new section, as follows:

OFFICE OF THE SERGEANT AT ARMS AND DOORKEEPER

Compensation of the Superintendents of the House and Senate Press and Radio Galleries shall be at the basic rates of $5,820 per annum and the Superintendents of the House and Senate Periodical Galleries at the basic rates of $4,500 per annum. Basic compensation of the assistants in each of the House and Senate Press and Radio Galleries shall be, one position at $4,500, one at $2,940, one at $2,940 and one at $2,100 per annum: *Provided*, That if there are only three assistants in a gallery, this does not authorize the employment of additional personnel at $2,100 per annum.

Mr. McKELLAR. Mr. President, the amendment offered by the Senator from New Hampshire did not come before the committee and was not passed on by the committee. I cannot speak for the committee on it, but so far as I am concerned personally I have no objection to it.

The VICE PRESIDENT. The question is on agreeing to the amendment offered by the Senator from New Hampshire [Mr. BRIDGES].

The amendment was agreed to.

The VICE PRESIDENT. The bill is still open to amendment.

Mr. JOHNSON of Colorado. Mr. President, I desire to refer to a statement contained in the committee report, on page 7. It makes reference to lines 16, 17, 18, and 19 on page 22 of the bill. It pertains to money which is being paid for carrying the mail by air. I desire to read this part of the report, and then make some brief comments on it:

To the recipient air lines: The committee is of the opinion that the Civil Aeronautics Authority Act of 1938 should be amended so as to provide for the payment of this subsidy under its present designation and thus to relieve the Post Office Department from being required to carry the items as a part of its appropriation.

The committee intends to make a study of the administration of the subsidy provision of the Civil Aeronautics Act of 1938, as amended, with a view to recommending legislation which will divorce subsidy from legitimate air-mail transportation costs so that the true picture can be made available to the American people.

What I wanted to say to the chairman of the committee and to the members of the committee is this: The Senate Committee on Interstate and Foreign Commerce has been carrying on an investigation of this very subject for many months past. We have held long hearings. We are at the present time continuing our investigations and hope to have for the Senate an interim report on this very point when the Senate reconvenes. But what I wanted to suggest to the Senate is that whatever study is made of the subject—and I am glad the study is being made; I am glad the Appropriations Committee realizes the necessity for such study—I want the Appropriations Committee and my committee to operate so that we shall not plow the same ground twice and that there will be no duplication. We have made considerable progress in this whole matter, and we should like nothing better than to have the Appropriations Committee work with us. We have a considerable staff devoting all its time to this subject.

Mr. FERGUSON. Mr. President, will the Senator yield?

Mr. JOHNSON of Colorado. I shall yield first to the chairman of the Appropriations Committee, and then I shall yield to the Senator from Michigan.

Mr. McKELLAR. Mr. President, the committee has authorized the chairman to appoint a subcommittee to look into the question. Of course if the Committee on Interstate and Foreign Commerce has looked into it, makes a report, and the report is satisfactory, there will probably be no further action of any kind taken. But I assure the Senator from Colorado that the Appropriations Committee at all times will be delighted to cooperate in this matter, which is a vital matter. It should be looked into, and I am glad the Senator's committee is doing it.

Mr. JOHNSON of Colorado. I was sure the Senator's answer would be as he has made it.

I now yield to the Senator from Michigan.

Mr. FERGUSON. Mr. President, I think a short explanation should be made concerning the matter. It involves approximately $61,000,000, and the Senator from Michigan feels that he should make an explanation on the floor to the able Senator who is chairman of the committee. More than a year ago, during the last session of Congress, the Appropriations Committee sent to the Committee on Expenditures in the Executive Departments an inquiry, and a suggestion that an investigation should be made of this very question. The Senator from Michigan at that time was chairman of a subcommittee. An investigation was started and a report was made to the Appropriations Committee, but the investigation has not been carried on.

The Senator from Michigan was not advised that the able Senator's committee was making its own investigation. I felt that the time had come when the Appropriations Committee should continue its own investigation, because the service is costing millions of dollars every year. A subsidy is given to an air line to cover any deficit in that air line's expenditures. In other words, no control is had of the air lines by the Congress or by the Federal Government, and if it should go into the red for any reason whatever—it may be extravagant in the purchase of land where its ticket offices are located; it may be extravagant in the serving of high-priced meals; it can use the money for any purpose, and after it is used, and it finds itself in the red and that it has been "deficit spending," Congress must appropriate money as a subsidy to pay off the deficit.

The Senator from Michigan felt that the time had come when something should be done. The investigating committee had not completed its work, and it was felt that the Appropriations Committee should continue.

So I hope the Appropriations Committee will cooperate and allow a continuation of the investigation at an early date. Something should be done, because this situation has been going on for many years under a blind subsidy from the Post Office Department to the air lines.

Mr. JOHNSON of Colorado. Mr. President, I should like to say that we shall have some very interesting and important information for the Appropriations Committee when we return in January. We have explored the subject at great length, and shall continue to do so. We shall have a report. If it is found necessary to do anything about the matter before Congress reconvenes, we hope that the Committee on Appropriations will let our committee work with it.

Mr. McKELLAR. I assure the Senator that that will be done. A subcommittee will probably not be appointed until January. We shall be glad to have the Senator's report and go over it carefully. I hope it will be so thorough and

so satisfactory in every way that we shall not have to go into the matter further.

Mr. JOHNSON of Colorado. I hope it will be that kind of a report.

I yield now to the Senator from North Dakota.

Mr. LANGER. Mr. President, frankly I am very much puzzled by the statements made by the distinguished senior Senator from Colorado. I hold in my hand a copy of the La Follette-Monroney Act. It provides that the Committee on Post Office and Civil Service shall have jurisdiction of the entire postal service, including the railway mail service, ocean mail, and the pneumatic tube service. In other words, it gives the Committee on Post Office and Civil Service full jurisdiction of everything pertaining to the Post Office Department.

We find in the bill appropriations for the field service, Office of the Postmaster General——

Mr. JOHNSON of Colorado. Just a moment——

Mr. LANGER. And for the Chief Inspector and for the Office of the Second Assistant Postmaster General——

Mr. JOHNSON of Colorado. If the Senator will wait a moment——

Mr. LANGER. The Senator from Colorado yielded. If he does not want to answer, that is all right. I was going to ask him how the Committee on Interstate and Foreign Commerce had any jurisdiction of those questions.

Mr. JOHNSON of Colorado. The committee has no jurisdiction of post office matters. It has jurisdiction of aviation matters. Under the law of 1938 the Post Office Department has been paying to air lines certain subsidies which have been mentioned. That is the only part of it in which the committee is interested. That is the only part of it which we are investigating. We are not investigating any of the items which the Senator has mentioned. We are not investigating any of the amounts involved in those offices for any purpose whatsoever. All we are doing is trying to find out about the operation of the air lines in the United States, and why it is that the Treasury has to pay out $125,000,000 a year to them. The amount is increasing rapidly. We want to know why it is that the airlines cannot operate without a subsidy, simply on a compensatory mail payment.

Mr. LANGER. Mr. President, will the Senator now yield for 2 minutes, without interrupting me?

Mr. JOHNSON of Colorado. Yes, I yield.

Mr. LANGER. When the entire question of air-mail postage came up it was referred to the Committee on Post Office and Civil Service. We spent days going over the matter to ascertain whether the rate should be raised or whether it should be lowered. All of a sudden we now find that the entire domestic air mail service, involving a sum of $22,564,000, is being considered by another committee.

We hear much about deficits. Yet, Mr. President, the Committee on Post Office and Civil Service has nothing to say as to how much shall be paid for space. It has nothing to say as to how much shall be set aside to be paid for air mail or air parcel post. Apparently there is a conflict somewhere in the jurisdiction of the committees. Certainly both committees cannot have jurisdiction of the same subject.

Mr. JOHNSON of Colorado. I do not think there is any conflict at all. If there is, we shall not have any difficulty with regard to it, because we want the Committee on Post Office and Civil Service to meet all its responsibilities. But the Committee on Interstate and Foreign Commerce does have a responsibility, so far as air lines are concerned. What we are trying to find out is how much of the postal pay is compensatory pay, how much of it is subsidy, and why.

Mr. LANGER. Mr. President, will the Senator yield further?

Mr. JOHNSON of Colorado. Yes.

Mr. LANGER. In the bill there is an additional amount for vehicle service, $7,700,000. By no stretch of the imagination can I possibly see how under the La Follette-Monroney Act, any other committee than the Committee on Post Office and Civil Service can have jurisdiction over that matter.

Mr. JOHNSON of Colorado. Mr. President, I agree completely with what the Senator has said.

Mr. WHERRY. Mr. President, in a colloquy in which the Senator from Michigan was engaged, I think with either the Senator from Colorado or the chairman of the committee, the question came up as to the total amount of the appropriations annually. I should like to give the figures for the RECORD.

In this bill, line 17, page 22, the additional amount is $15,692,000 for foreign air-mail service for the fiscal year 1950. The regular appropriation is already $45,308,000, which makes a total for the year of an even $61,000,000.

Referring now to page 22, line 19, domestic air mail service, the appropriation asked for in this bill, which we are about to allow, is $22,564,000. In the regular appropriation we allowed $41,753,000, making a total of $64,317,000, or a grand total for both services for the year 1950 of $125,317,000.

Mr. FERGUSON. Mr. President, will the Senator yield?

Mr. WHERRY. I yield.

Mr. FERGUSON. Is it not possible that we will have to pay even a greater amount later, when the authorities audit their books and ascertain what their real loss might be for this particular year?

Mr. WHERRY. That is true. What I have read is the amount that it is contemplated might be lost, but it will grow.

Mr. President, I was a member of the subcommittee and the full committee which wrote the bill, and I supported the motion for an investigation by a subcommittee of the Committee on Appropriations. Since coming to the floor of the Senate and hearing the statement of the distinguished Senator from Colorado, that the Committee on Interstate and Foreign Commerce is working upon this matter, and also that the Post Office Department is investigating, I am not so sure that what we are asking will not be covered in those investigations, if they are made, and I understand they will be made. I think that will suffice for what the Committee on Appropriations wanted to learn. We are asked to make these blanket appropriations, and it is very difficult to justify something of this kind without getting more information than we have. So I wish to thank the distinguished Senator from Colorado for his statement relative to the investigation. I also desire to commend the chairman of the Committee on Appropriations. One thing I should like to stress is that I am in total agreement with the Senator from Michigan in saying that something should be done, and certainly if it is not done in January, and if it cannot be done in conjunction with the committee, before another appropriation is asked for, I hope if these other investigations are not concluded, we will have more information than we have had to justify the appropriation of this much money annually.

Mr. McKELLAR. Mr. President, under the conditions named, certainly the subcommittee will be appointed, and the investigation made. I think it was the unanimous feeling of all the members of the Committee on Appropriations that this matter needed investigation.

Mr. BRIDGES. Mr. President, I send an amendment to the desk and ask that it be stated.

The VICE PRESIDENT. The clerk will state the amendment.

The LEGISLATIVE CLERK. On page 22, line 22, before the semicolon insert a colon and the following: "*Provided*, That in carrying out the purposes of this act the President shall seek joint action on the part of participating nations to obtain an immediate stoppage of dismantling and destruction of industrial plants within, and their removal from, the occupied areas of western Germany pending completion of the study undertaken pursuant to section 115f of Public Law 472, Eightieth Congress, as amended by Public Law 327, Eighty-first Congress."

Mr. McKELLAR. Mr. President, I ask the Vice President, Is that amendment in order on an appropriation bill?

The VICE PRESIDENT. If the Senator makes the point of order——

Mr. McKELLAR. I make the point of order. I do not think it should be put on this bill. We will have trouble with it if it is put on the bill this late in the session.

The VICE PRESIDENT. The Chair does not think it is in order on an appropriation bill, and therefore sustains the point of order.

Mr. BRIDGES. Mr. President, of course many things that are done here perhaps are not in order, and I think this amendment raises an issue which on this particular bill can well be discussed, and I should like to have consent to explain the amendment for about 2 minutes.

The VICE PRESIDENT. The Chair had no desire to cut the Senator off.

Mr. BRIDGES. I ask for 2 minutes to explain the amendment.

The VICE PRESIDENT. Without objection, the Senator may proceed.

Mr. BRIDGES. Mr. President, when the ECA law was passed by Congress this year there was included in the bill a provision, agreed to by both Houses and signed by the President, which is now the law of the land, providing that a further study be made into the dis-

mantling problem. It was a compromise provision, which seemed finally to have the approval of both the House and the Senate in a bipartisan way.

The pending bill includes money for implementing the sending of arms to Europe, and the amendment I am offering merely authorizes the President to confer with the countries which are engaged in dismantling and taking things from Germany, to get an agreement to stop dismantling until the provisions of the ECA Act can be carried out.

We are appropriating over a billion dollars for aid abroad. We say we must build up a strong western Europe in order to withstand the ravages and the advances of communism in Europe. If we are to put up American money, as we have been doing, and to provide somewhat for the coordinated defense of western Europe, and I offer no apologies for it, because I supported it, whether it is for economic aid or, as in this case, military aid, because I think it is essential—I believe it is, to say the least, stupid and asinine to tear down the ability of one of the countries in western Europe to sustain itself, and to help take itself off the backs of the American taxpayers.

Mr. President, this amendment is merely an authorization to the President to secure the cooperation of the powers engaged in dismantling, to hold up on it until there is an opportunity to carry out the provisions of the ECA law.

I feel very strongly on this matter, and though a point of order has been raised, and it may do no good, I think we should have an opportunty to vote on it, and I appeal from the decision of the Chair.

The VICE PRESIDENT. The Chair has held that the amendment is legislation on an appropriation bill, and therefore not in order, and the question is, Shall the decision of the Chair stand as the judgment of the Senate?

Mr. FERGUSON. I ask for the yeas and nays.

The yeas and nays were not ordered.

Mr. WHERRY. I suggest the absence of a quorum.

The VICE PRESIDENT. The Secretary will call the roll.

The legislative clerk proceeded to call the roll.

Mr. WHERRY. Mr. President, I ask unanimous consent to withdraw the suggestion of the absence of a quorum, and that the order for the calling of the roll may be rescinded, so that we may have a division on the pending question.

The VICE PRESIDENT. Without objection, the procedings under the quorum call will be vacated.

Mr. WHERRY. I call for a division on the appeal from the decision of the Chair.

The VICE PRESIDENT. The question is, Shall the decision of the Chair stand as the judgment of the Senate? A division has been called for.

On a division the ruling of the Chair was sustained.

The VICE PRESIDENT. If there be no further amendment to be offered, the question is on the engrossment of the amendments and the third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill (H. R. 6427) was read the third time, and passed.

Mr. MCKELLAR. I move that the Senate insist upon its amendments, request a conference with the House thereon, and that the Chair appoint the conferees on the part of the Senate.

The motion was agreed to; and the Vice President appointed Mr. MCKELLAR, Mr. HAYDEN, Mr. RUSSELL, Mr. BRIDGES, and Mr. GURNEY conferees on the part of the Senate.

The VICE PRESIDENT. The Senator from Oregon [Mr. MORSE] still has the floor.

Mr. LUCAS. Mr. President, will the Senator yield?

Mr. MORSE. I yield.

Mr. LUCAS. I ask unanimous consent that the Senator from Oregon may yield the floor for the presentation of conference reports, with the understanding that he may resume the floor when the conference reports are disposed of.

The VICE PRESIDENT. Without objection, it is so ordered.

Mr. MORSE. I appreciate that request on the part of the Senator from Illinois.

RURAL TELEPHONES—CONFERENCE REPORT

Mr. HOLLAND. Mr. President, I submit a conference report on the bill (H. R. 2960) to amend the Rural Electrification Act to provide for rural telephones, and for other purposes, and I ask unanimous consent for its present consideration.

The VICE PRESIDENT. The report will be read for the information of the Senate.

The report was read.

(For conference report, see p. 14943 of House proceedings for October 18, 1949.)

The VICE PRESIDENT. Is there objection to the present consideration of the conference report?

There being no objection, the report was considered and agreed to.

AMENDMENT OF FEDERAL FARM LOAN ACT

The VICE PRESIDENT laid before the Senate a message from the House of Representatives announcing its disagreement to the amendment of the Senate to the bill (H. R. 3699) to amend the Federal Farm Loan Act, as amended, to authorize loans through national farm-loan associations in Puerto Rico; to modify the limitations on Federal land-bank loans to any one borrower; to repeal provisions for subscriptions to paid-in surplus of Federal land banks and cover the entire amount appropriated therefor into the surplus fund of the Treasury; to effect certain economies in reporting and recording payments on mortgages deposited with the registrars as bond collateral, and canceling the mortgage and satisfying and discharging the lien of record; and for other purposes, and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. HOLLAND. I move that the Senate insist upon its amendment, agree to the request of the House for a conference, and that the Chair appoint the conferees on the part of the Senate.

The motion was agreed to, and the Vice President appointed Mr. HOLLAND, Mr. ELLENDER, Mr. JOHNSTON of South Carolina, Mr. HICKENLOOPER, and Mr. THYE conferees on the part of the Senate.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Maurer, one of its reading clerks, announced that the House had passed, without amendment, the following bills of the Senate:

S. 1284. An act to amend section 6 of the Federal Airport Act; and

S. 2290. An act to authorize an appropriation for the making of necessary improvements in the cemetery plots at the Blue Grass Ordnance Depot, Richmond, Ky.

The message also announced that the House had agreed to the amendments of the Senate to each of the following bills of the House:

H. R. 4586. An act to authorize the government of the Virgin Islands or any municipality thereof to issue bonds and other obligations; and

H. R. 5184. An act to prove contracts negotiated with the Belle Fourche irrigation district, the Deaver irrigation district, the Westland irrigation district, the Stanfield irrigation district, the Vale Oregon irrigation district, and the Prosser irrigation district, to authorize their execution, and for other purposes.

The message further announced that the House had severally agreed to the amendment of the Senate to the following bills of the House:

H. R. 4686. An act to authorize the issuance of certain public-improvement bonds by the Territory of Hawaii;

H. R. 4966. An act to enable the Legislature of the Territory of Hawaii to authorize the city and county of Honolulu, a municipal corporation, to issue sewer bonds;

H. R. 4967. An act to enable the Legislature of the Territory of Hawaii to authorize the city and county of Honolulu, a municipal corporation, to issue bonds for the construction of certain public-park improvements in the city of Honolulu;

H. R. 4968. An act to enable the Legislature of the Territory of Hawaii to authorize the city and county of Honolulu, a municipal corporation, to issue flood-control bonds;

H. R. 5459. An act to enable the Legislature of the Territory of Hawaii to authorize the city and county of Honolulu, a municipal corporation, to issue bonds for the purpose of defraying the city and county's share of the cost of public improvements constructed pursuant to improvement district proceedings; and

H. R. 5490. An act to enable the Legislature of the Territory of Hawaii to authorize the county of Kauai, Territory of Hawaii, to issue public-improvement bonds.

HOUSE BILLS REFERRED

The following bills were severally read twice by their titles, and referred, as indicated:

H. R. 2386. An act to provide for the establishment and operation of a rare and precious metals experiment station at Reno, Nev.; and

H. R. 2736. An act to confer civil and criminal jurisdiction on the State of Wisconsin in certain cases involving Indians; to the Committee on Interior and Insular Affairs.

H. R. 4285. An act to amend the act of July 31, 1946, in order retroactively to advance in grade, time in grade, and compensation certain employees in the postal field service who are veterans of World War II;

to the Committee on Post Office and Civil Service.

H. R. 6301. An act to provide for parity in awards of disability compensation; to the Committee on Finance.

H. R. 5361. An act for the relief of Charles G. McCormack, captain, Medical Corps, United States Navy; to the Committee on Armed Services.

INTERNATIONAL WHEAT AGREEMENT—CONFERENCE REPORT

Mr. JOHNSTON of South Carolina. Mr. President, I submit a conference report on the bill (H. R. 6305) to give effect to the International Wheat Agreement signed by the United States and other countries relating to the stabilization of supplies and prices in the international wheat market, and I ask unanimous consent for its present consideration.

The VICE PRESIDENT. The conference report will be read for the information of the Senate.

The conference report was read.

(For conference report, see today's House proceedings on pp. 14946–14947.)

The VICE PRESIDENT. Is there objection to the present consideration of the conference report?

There being no objection, the Senate proceeded to consider the report.

The VICE PRESIDENT. The question is on agreeing to the conference report.

Mr. BRIDGES. Mr. President, may we have an explanation of the report? On what points did the conferees agree?

Mr. JOHNSTON of South Carolina. The House language provided for a penalty of three times the value of the cargo. The Senate amended that language and made the penalty the actual value of the cargo. The conferees agreed that the penalty should be twice the value of the cargo. Also the conferees inserted the word "willful" so the provision was that the act must be a willful one. That was one of the main points of agreement.

Mr. BRIDGES. There were no other major agreements?

Mr. JOHNSTON of South Carolina. Two or three very minor agreements were entered into.

The VICE PRESIDENT. The question is on agreeing to the conference report.

The report was agreed to.

AMENDMENT OF FAIR LABOR STANDARDS ACT—CONFERENCE REPORT

Mr. PEPPER. Mr. President, I submit a conference report on the bill (H. R. 5856) to provide for the amendment of the Fair Labor Standards Act of 1938, and for other purposes, and I ask unanimous consent for its present consideration.

The VICE PRESIDENT. The conference report will be read for the information of the Senate.

The report was read.

(For conference report, see pp. 14925–14928 of House proceedings for October 18, 1949.)

The VICE PRESIDENT. Is there objection to the present consideration of the report?

There being no objection, the Senate proceeded to consider the report.

The VICE PRESIDENT. The question is on agreeing to the report.

Mr. PEPPER. Mr. President, I ask unanimous consent to have printed in the RECORD at this point as a part of my remarks a summary in detail of the provisions of the bill to provide for the amendment of the Fair Labor Standards Act of 1938, as amended, agreed to in conference. The conference agreement adopts the approach of the Senate amendment, amending only certain sections of the act, rather than of the House bill, which would have reenacted the entire statute, as amended.

The VICE PRESIDENT. Without objection, it is so ordered.

Mr. PEPPER. Mr. President, I also call attention at this time to the language in the conference report, at the bottom of page 16, beginning with the last new paragraph on that bill, and concluding with the words, just before the heading "Industry Committees for Puerto Rico and the Virgin Islands" on page 17, as follows:

It is the unanimous opinion of the committee of conference that the duties of the Solicitor of Labor are of such a nature that his position should receive the highest possible rate of compensation under the new legislation revising the Classification Act (H. R. 5931).

Mr. BRIDGES. Mr. President, will the Senator yield?

Mr. PEPPER. I yield.

Mr. BRIDGES. Was an amendment agreed to in conference which would exclude labor employed in woods and forestry operations, including pulpwood?

Mr. PEPPER. Yes. I will say that if the employer has less than 12 employees then those employees engaged in the cutting of the timber and the transportation of the logs either to the mill or to the terminus for transportation, are exempt from both the minimum-wage provision and the maximum-hours provision of the bill. That would include pulp operations in the woods.

Mr. FERGUSON. Mr. President, will the Senator yield?

Mr. PEPPER. I yield.

Mr. FERGUSON. I did not catch what it was the Senator offered for the RECORD. Before I could get on my feet it was ordered to be printed in the RECORD.

Mr. PEPPER. It was a statement about the history of the various provisions of the law.

Mr. FERGUSON. Is it intended that that should become such a part of the record as to be considered by a court in interpreting the language of the law?

Mr. PEPPER. The House managers inserted some language in the report, and this was put in to reflect the general point of view of the Senate committee upon the historical background of the legislation.

Mr. FERGUSON. It is not a personal statement from the Senator from Florida?

Mr. PEPPER. It is a statement of the Senator from Florida, but conformable to the views of the Senate conferees, and prepared by the staff of the Senate committee.

Mr. FERGUSON. Should it not be laid before the Senate now?

Mr. PEPPER. I shall be very glad to do so. It is a rather lengthy document. The committee felt that there should be some sort of legislative background of the various provisions, especially because the House conferees incorporated their own views on the subject.

Mr. FERGUSON. Have all the Senate conferees agreed to this statement? Have they agreed that it should be in the language in which it is? It might be used by the court as a means of interpreting a section of the law which might be ambiguous.

Mr. PEPPER. The language was prepared for presentation, reflecting the views of the Senate conferees and those participating on behalf of the Senate, by Mr. Shroyer, on behalf of the Senator from Ohio [Mr. TAFT], and Mr. Lazarus, the committee clerk, and others who have participated all along in the reflection of the views of the members of the Senate committee on this subject.

Mr. SALTONSTALL. Mr. President, will the Senator yield?

Mr. PEPPER. I yield.

Mr. SALTONSTALL. I should like to ask the Senator from Florida what the conference report does concerning the fishing industry?

Mr. PEPPER. In respect to the fishing industry, the language of the House bill was admittedly ambiguous. It applied the minimum-wage provisions, but did not apply the overtime provisions of the law to fishing. Finally, after this matter was considered for quite a while in conference, what the conferees agreed upon was to apply the minimum-wage provisions of the law to employees engaged in the canning of sea-food products or aquatic life, but to exempt such employees from the overtime provisions of the law.

Mr. SALTONSTALL. What about the processors of fish?

Mr. PEPPER. The processing of fish is not made subject to coverage. It is only the canning of fish to which the legislation applies. All other fishery employees or sea-food processing employees are exempt, as the present law exempts them. We extend the present law only with respect to the canning of sea-food products, and that only as to the minimum-wage provisions, and not as to the overtime provisions.

Mr. SALTONSTALL. As I understood, the House language included the processing of fish, but the Senate version did not.

Mr. PEPPER. It did not.

Mr. SALTONSTALL. So the conferees eliminated it.

Mr. PEPPER. That is correct.

Mr. WHERRY. Mr. President, will the Senator yield?

Mr. PEPPER. I yield.

Mr. WHERRY. I do not think we should rush these conference reports through unless Senators have an opportunity to interrogate Members who are presenting them. I am not a member of the Committee on Labor and Public Welfare, but I think I have a general knowledge of what the Senate did. I have been a member of committees which have written reports in conferences. We have always felt that a conference report had considerable bearing on the interpretation of the law. The Senator from Michigan raised several questions which

I would have asked relative to the conference report, and I do not care to go over that ground. However, I heard the Senator from Florida state that Mr. Shroyer, I believe, represented the Senate conferees in the conference with the managers on the part of the House, and that he agreed with the House managers to the statement which the Senator from Florida asked unanimous consent to place in the RECORD.

Mr. PEPPER. I find now, by reference to the counsel of the committee, Mr. Lazarus, that I was unintentionally in error in my statement that Mr. Shroyer had participated in the drafting of the report.

Mr. WHERRY. In order to shorten it, let me say that I do not doubt the Senator's statement at all. However, in the absence of the Senator from Ohio [Mr. TAFT], whom the Senator from Florida mentioned, I feel that we should have a little time to examine the statement which the Senator had printed in the RECORD. I do not want to ask the Senate to listen to the reading of it if it is a long statement. Would the Senator object to reconsideration of the action taken by the Senate in ordering the statement to be printed in the RECORD, so as to permit us to examine the statement, resubmitting it at a later date? I am speaking now only of the statement which accompanied the report.

Mr. PEPPER. So far as the Senator from Florida is concerned, the Senator from Nebraska is at liberty to examine the statement in any detail he wishes. To state the matter fully, it was felt by the Senate staff that the House conferees, in writing a certain section of the language applicable only to the House conferees, had not given the background of the various sections in the way the Senate conferees understood it. It was felt that the point of view which has generally prevailed in the Senate committee should also be a part of the record, rather than that we should go back and quarrel with the House conferees. We did not feel like intervening in the writing of their report. Two of our staff members sat in, but it was pretty generally understood that the House Members wanted to write the language in their own way. Our staff felt that it was only proper that the record should contain the general point of view and the historical background on the basis of which the Senate committee dealt with this question. Rather than go back and ask the House conferees to change their language, we merely submitted for consideration the general point of view of Senators on the subject.

Mr. WHERRY. Mr. President, I ask unanimous consent that that part of the action which the Senate took in granting unanimous consent to the Senator from Florida to insert this statement in the RECORD along with the conference report be rescinded, so that Senators may be given ample time to study the statement. Overnight is sufficient time for me. Then if the Senator will renew his request after members of the Committee on Labor and Public Welfare have had an opportunity to examine it, I think there will be no trouble about it.

Mr. PEPPER. Very well.

Mr. WHERRY. I do not think there will be any difficulty about it at all, but I should like very much to have that privilege, because I believe that the statement of the historical background might be used by the court in interpreting the law itself. If it is, I think we should have the opportunity to look it over.

The VICE PRESIDENT. Is there objection to the withholding of the material referred to?

Mr. PEPPER. Mr. President, reserving the right to object, I understand that the Senator from Nebraska limits his request to the material which I obtained unanimous consent to have printed in the RECORD, and does not include consideration of the conference report itself.

Mr. WHERRY. That is correct.

Mr. PEPPER. I readily join in the request.

The VICE PRESIDENT. Is there objection to the request of the Senator from Nebraska [Mr. WHERRY]. The Chair hears none, and it is so ordered.

Mr. MAGNUSON. Mr. President, I am sorry that I was not in the Chamber when the Senator from Florida explained the amendment regarding logging and forestry products.

Mr. PEPPER. If I may, I will explain it again.

Mr. MAGNUSON. I have read the report. I should like to have the Senator from Florida correct me if I am not correct in my understanding that the bill represents a modified version, as between the House and Senate, and that the bill now exempts those who are engaged in purely logging operations in the woods. I understand that operators employing not more than 12 workers engaged only in hauling the logs and doing the work in the woods are exempted.

Mr. PEPPER. That is correct. Cutting the logs in the woods and transporting the logs from the place where they are cut to the mill, or to the terminus for transportation, are exempted. Basically we accepted the House language, except that we eliminated sawmills, which are engaged in processing, and we included pulp operations, which had not been included in the House language. So when the employer has fewer than 12 employees, the work of the employees in the woods, in cutting and hauling the logs intended for pulp mills, is exempted from both the minimum-wage and the maximum-hours provisions of the law.

Mr. MAGNUSON. I still do not agree with that, but I wanted to be perfectly clear.

Mr. PEPPER. We did the best we could in the conference.

Mr. FULBRIGHT. Mr. President, will the Senator yield?

Mr. PEPPER. I yield.

Mr. FULBRIGHT. I wish to ask one question on the last point discussed. The usual practice is that the same crew is engaged in logging for a sufficient time to get a yard of logs, and then they come in and manufacture them. How would the law apply to them?

Mr. PEPPER. The employment which would be exempt under the conference report is only the woods part of the employment. The exemption would not apply when the worker was engaged in cutting the logs in the sawmill, or in the processing of the logs into pulp in the pulp mill.

Mr. FULBRIGHT. Let me ask one other question, if the Senator will yield: What did the conference committee do with regard to the exemption of cotton gins and warehouses and compresses, which amendment was offered by the Senator from Mississippi [Mr. STENNIS], I believe, and was adopted by the Senate?

Mr. PEPPER. On that matter, essentially, the Senate conferees receded at the insistence of the House conferees, and the Senate amendment was deleted by the conferees, leaving the law as it is today—in other words, as the Wage-Hour Administrator says, in the case of cotton gins exempting about 90 percent of the cotton gins which are in the area of production. In other words, the processing of agricultural commodities which occurs within the area of production is at the present time exempt from the minimum-wage and maximum-hours provisions of the law.

The matter of the area of production is a very difficult one. It has been difficult of administration. The first definition laid down by the Wage and Hour Administrator was eliminated by the courts. Definitions which were subsequently devised have not, themselves, been altogether satisfactory.

There has been a general desire, both by those who favor the extension of this law and by those who did not favor the law at all, to have the definition modified and improved. I think it is the consensus of opinion of the conferees that they hope the Wage and Hour Administrator will constantly endeavor to improve the definition of "area of production," and, especially in the case of cotton, that he will apply it as liberally as possible.

Mr. FULBRIGHT. In regard to this matter, did the conferees make any statement relative to what the Wage and Hour Administrator should do?

Mr. PEPPER. What I have just stated was the general opinion. I do not recall any express statement to that effect; but it was the general opinion in the conference that that should be done.

Mr. FULBRIGHT. Did the conferees also leave out the amendment of the House of Representatives which provided that the Secretary of Agriculture should define the "area of production"?

Mr. PEPPER. The House conferees receded from that provision, for it was felt by the entire conference, after consideration, that it would be better to have the administration of the "area of production" provision in the Wage and Hour Administration, where it has been, rather than to divide the authority in this field between the Wage and Hour Administration, under the Secretary of Labor, and the Secretary of Agriculture. We were influenced in that decision by a letter communicated to both the Senate and the House committees by the Secretary of Agriculture, saying that he did not think it would be appropriate for him to have the jurisdiction, that he did not welcome it, and that he had collaborated with, and would continue to collaborate with, the Secretary of Labor in working out this matter.

Mr. FULBRIGHT. Does not the Senator think it significant that both Houses took action designed to change the present method, and indicating that a change was desired by both Houses, but that they approached it from a different angle, one amendment showing dissatisfaction on the part of the House with the present arrangement, and the other—the Senate amendment—specifically giving exemption to those in counties where cotton is produced. For example, in the largest cotton-producing county in the United States, namely, Mississippi County, Ark., which is the most prolific cotton-producing county, among those of comparable area, the town of Blytheville is not exempt. As the Senator from Florida knows, any warehouse in a town having a population of more than 2,500 persons is not exempt. So warehouses in that town are not exempt.

So the act which the court has not held invalid has not brought about an exemption in the case of that particular industry.

It seems to me now that the conferees have acted, something more definite should be said on the part of the managers for the Senate, so as to direct, so far as they can do so, the Wage and Hour Administrator to do something in this field, since both Houses of Congress have evidenced dissatisfaction with what is being done.

As a matter of fact, this item just misses being subject to a point of order, because the two Houses approached it in a somewhat different way, and the amendments are not to the same section of the bill.

Mr. PEPPER. I am glad the Senator has clearly used the word "miss" there, because it is a very clear miss.

Mr. FULBRIGHT. Yes; it just misses.

Mr. PEPPER. The House had done nothing with respect to the matter in which the Senate is now interested, namely, cotton gins and compresses, as regards an exemption. The Senate did adopt an amendment providing an exemption for those operations. The House had agreed to a general administrative provision to the effect that the Secretary of Agriculture, instead of the Secretary of Labor or the Wage-Hour Administrator, should administer the area of production; but there was no mention of area of production in the Senate amendment, as I recall. So the two amendments were not the same at all.

Mr. FULBRIGHT. The Senator from Florida may not be acquainted with this matter; but an amendment similar to the one adopted in the House was prepared—and I joined in it; and the junior Senator from Mississippi was to offer it, and I was the cosponsor of it. After the bill came here, an amendment was offered and adopted in the Senate, and we, thinking of course that that amendment would receive favorable attention by the conferees, did not press the other amendment. But the objective of both amendments is exactly the same. The House amendment was designed to achieve the same purpose, namely, to get a reasonable definition of "area of production," which would have some application to this industry. That was the whole reason for the amendment. I think the Senator will find in the legislative history that those interested in cotton were the ones who then supported the House amendment.

So the real objective of both amendments was the same; but the two amendments were offered as two different methods of achieving it.

Mr. PEPPER. Mr. President, I am quite sympathetic with the Senator from Arkansas and with other Senators who share his view about the "area of production" definition and about having it gradually improved in the course of administration. I think all of us are sympathetic in that connection, as regards having that done. But obviously we shall have to struggle with that in the years ahead, and shall have to struggle with the question of whether we shall allow the "area of production" provision at all, or whether it will be withdrawn totally, or whether the "area of production" will be exempt.

But the fact that there have been so few suits questioning the rules that have been adopted in recent years, as contrasted with the situation in former years, indicates that progress is being made. We hope they will continue to improve the definition.

Mr. FULBRIGHT. Mr. President, I am sorry the conferees did not accept the Senate amendment. The Senate adopted it, of course.

Mr. PEPPER. The Senate did adopt it; but when we got into conference, those interested in other agricultural commodities felt that those commodities were being discriminated against; and the House conferees would not agree to this item.

The VICE PRESIDENT. The question is on agreeing to the conference report.

The report was agreed to.

Pursuant to an unanimous-consent agreement of October 19 the following discussion and statements were ordered to be printed at this point in the RECORD:

Mr. PEPPER. Mr. President, it will be recalled that at the time I presented the conference report on the Fair Labor Standards bill I submitted some material which would be considered as showing something of the understanding of the Senate conferees about what was included in the conference report. It was requested that the document presented be withdrawn until an opportunity could be had for its examination by some who were not fully satisfied about it. That was, of course, done with my cheerful concurrence.

Now I reoffer the statement, not on behalf of all the conferees, because two of the conferees will speak for themselves if they care to do so, or through their representatives, or through their chosen spokesmen. I offer the statement, which I now again tender on behalf of three of the Senate conferees, being a majority of the Senate conferees, who were the principal sponsors of the bill, and who were active in the conference, namely, the chairman of the Committee on Labor and Public Welfare, the distinguished Senator from Utah [Mr. THOMAS], the ranking Democratic member of the committee in the conference, the eminent Senator from Montana [Mr. MURRAY], and the senior Senator from Florida, who was also one of the sponsors of the bill, and was chairman of the subcommittee which handled the legislation in the committee.

Let it be clearly understood that the statement only expresses the views of the named three Senators as to what is the meaning of the language adopted by the conference. I say that that is done only because the RECORD contains no statement on behalf of the Senate conferees, whereas the House conferees submitted a rather lengthy statement on the part of the House Members.

The majority of the Senate conferees thought it only appropriate that their views as Senate conferees should also appear in the RECORD. I ask that the statement be received, and that it appear in the permanent RECORD, immediately following the adoption of the conference report by the Senate.

The VICE PRESIDENT. Is there objection?

Mr. WHERRY. Reserving the right to object, I will say that it was the majority leader, the junior Senator from Nebraska, who objected to the inclusion of the statement which the distinguished Senator from Florida told the Senate gave the historical background upon which, according to the contention of the junior Senator from Nebraska, an interpretation might be made. It was offered in behalf of the Senate conferees.

I am not a member of the Committee on Labor and Public Welfare. There is present the senior Senator from Missouri [Mr. DONNELL], who will speak for himself in a moment. I do not wish to object to this statement, but in view of the fact that Mr. Shroyer, who the Senator from Florida suggested, was acting for one member of the committee, has given his approval, I want the RECORD to show that Mr. Shroyer has examined the report, and I now have been asked to object to the report if it is offered in any way on behalf of the Senate conferees with any idea that it is the sense of the Senate conferees that the statement is to be used as a basis for interpreting the law, based upon the historical background.

I am not objecting if the statement is being offered as an individual statement by the Senator from Florida, the Senator from Utah [Mr. THOMAS], and the Senator from Montana [Mr. MURRAY]. If that is the offer that is being made, and the statement is not to be controlling so far as the interpretation is concerned, and if it is not to be regarded as a report of conferees, then I think there is no harm in receiving it. In other words, I shall not object if, as I understand, the senior Senator from Florida offers it only as a statement of individual Senators. If that is all it amounts to, I see no objection to it. Certainly they would have a right to file such a statement at any time.

Mr. MORSE. Mr. President, will the Senator yield?

Mr. PEPPER. Mr. President——

Mr. WHERRY. Just a moment. I have not finished. Let me conclude.

I do not want to grant unanimous consent if the statement is offered for any other purpose on the part of the Senate conferees, or with the idea that it is to be

a guide for those who may later interpret the act. If it is offered on the basis of being merely a statement by individual Senators, I shall not object.

Mr. PEPPER. Mr. President, I would not want to deceive the Senator. I should like an opportunity to make a statement in that connection.

Mr. MORSE. Mr. President, I should also like to make a statement.

Mr. PEPPER. If the Senator will bear with me a moment, I shall be glad to yield to the Senator from Oregon.

The Senator from Missouri [Mr. DONNELL] has already informed me that he is prepared to offer to the Senate a statement on behalf of the Senator from Ohio [Mr. TAFT]. A moment ago I stated that the Senator from Ohio and the Senator from Vermont [Mr. AIKEN], who was the other conferee, would speak, if they chose to do so, through their chosen spokesman. I did not purport to speak on behalf of anyone except the Senator from Utah, the Senator from Montana, and the Senator from Florida. Those individuals do constitute a majority of the Senate conferees. I wish to make it very clear—I do not want to sail under false colors—that we feel that the Senate conferees have the right to express their views as to what is the meaning of the legislation.

Mr. MORSE. Mr. President, will the Senator yield?

Mr. PEPPER. I yield.

Mr. MORSE. Mr. President, I wish to associate myself with the remarks of the Senator from Florida. I think the remarks of the Senator from Nebraska raise a very undesirable precedent on the floor of the Senate. We are dealing here with a conference report. We are dealing with the remarks, the opinions, and the views of the majority of the Senate conferees set out in their report on the bill as it came out of conference. As a matter of legislative history, those views may become of great importance in the future interpretation of the law by the courts of the land.

I wish to say to my friend from Nebraska that I am not at all interested in whether or not the views of a majority of the Senate conferees on any bill are acceptable to or are agreed to by any staff member of any committee of the Senate. Mr. Shroyer may be acting for the Senator from Ohio [Mr. TAFT] but he cannot act for the Senator when it comes to having his views bind the Senate when this conference report prepared by a majority of the Senate conferees at the time that the Senate accepts the report of interpretation as it is now submitted by the Senator from Florida [Mr. PEPPER]. I am not interested in what Mr. Shroyer's views are with respect to this report. I am interested in what the majority of the Senate conferees say about the minimum wage bill in their report on it.

Mr. WHERRY. Mr. President——

Mr. MORSE. I will not yield at this point.

I wish to say to the Senator from Florida that when a majority of the Senate conferees make a report as to their views with respect to a bill which is being reported by the conferees, that report should stand on its own footing. I hope the time will never come when the leader on the Republican side of the aisle raises objection to a unanimous consent request for the filing of such a report, after it has been made available to Senators, as the Senator from Florida has made it available, and once an opportunity has been given to examine the report. It is the report of the majority of the conferees. It is not the report of the individual conferees.

I consider it quite improper to lay down any such condition as is being laid down in regard to permitting the Senator from Florida to file the report of the conferees. Any attempt to require that this report be filed as the individual views of the Senate and not as a report of the Senate conferees would be a bad precedent. Particularly do I object to having the opinion of some staff member presented here as being of any influence in determining the legal implications and interpretations of the bill. Therefore, if the Senator from Nebraska is not willing to give unanimous consent to have this report filed, as the report of the majority of the Senate conferees, I shall move that it be filed.

Mr. WHERRY. Mr. President, will the Senator yield?

Mr. PEPPER. I gladly yield to the Senator from Nebraska.

Mr. WHERRY. I am not sure that the distinguished Senator from Oregon was in the Chamber when the request was made.

Mr. MORSE. I was present.

Mr. WHERRY. My understanding from the senior Senator from Florida was that he had contacted Mr. Shroyer. That is how his name entered into the discussion. I also understand that Mr. Shroyer, speaking for the Senator from Ohio [Mr. TAFT], was agreeable to the report. Is that correct?

Mr. PEPPER. The Senator is correct, in that I first mentioned the name of Mr. Shroyer. I stated that I had been advised by the staff members that Mr. Shroyer had collaborated in the preparation of the report, and was in agreement with what it contained. Later my attention was called to the fact that Mr. Shroyer had not participated in the preparation of the report, and therefore could not be said to have concurred in it. Then I stated on the floor that I was in error in the information which I received, and concurred in the request of the Senator from Nebraska that the report be withdrawn to allow time and opportunity for Senators to examine it.

Last evening, and again this morning, Mr. Shroyer did go over the report with members of the staff. I do not wish to make a statement on behalf of Mr. Shroyer, or on behalf of his principal, the Senator from Ohio [Mr. TAFT]. There was what I would term a "small difference" as to one limited segment of the report, and attention will be called to that by the Senator from Missouri [Mr. DONNELL] speaking on behalf of the Senator from Ohio. He will express his views with respect to a certain portion of the report.

When the courts and the Administrator subsequently come to consider this subject, they will have the CONGRESSIONAL RECORD in the Senate and in the House. They will have the statement of the House managers. They will have the statement of the majority of the Senate conferees; and they will have the individual statement of the Senator from Ohio, to the extent he desires to offer it. If the Senator from Vermont [Mr. AIKEN] cares to make any statement, that will be available. All of it, taken together, will constitute part of the historical background of the legislation.

Mr. WHERRY. Mr. President, will the Senator yield?

Mr. PEPPER. I yield.

Mr. WHERRY. I deeply appreciate the explanation of the Senator from Florida. That clarifies completely the statement which was made about the staff member.

I am not laying down any such requirement as is alleged by the junior Senator from Oregon. In view of the last statement made by the Senator from Florida, that this statement will go in the RECORD as a statement of the majority of the conferees, I have no objection to it on that ground. I do not care whether it is the statement of three conferees or five.

Mr. McFARLAND. Mr. President, will the Senator yield?

Mr. PEPPER. I yield.

Mr. McFARLAND. These statements were not read or presented before the conference report was adopted, were they?

Mr. PEPPER. They were submitted after the conference report was adopted.

Mr. McFARLAND. So they could not be considered as having been adopted by the Senate as an interpretation of the conference report. Therefore I do not see why there should be any objection to three Senators, five Senators, or any other number of Senators, filing their views as to the meaning of this legislation, because it is definitely clear that the statement is not adopted by the Senate as its interpretation.

Mr. PEPPER. Just as the statement of the managers of the conference on the part of the House shows their opinion, this would show the opinion of the majority of the conferees on the part of the Senate.

Mr. MORSE. Mr. President, will the Senator yield?

Mr. PEPPER. I yield.

Mr. MORSE. Does the Senator from Florida agree with me as a lawyer that, nevertheless, the filing of this report by a majority of conferees will be of value so far as the legislative history of the bill is concerned when the courts come to interpret any dispute which may arise as to any alleged ambiguity within the law?

Mr. PEPPER. The courts, in the interpretation of legislation, take into account the entire historical background, and the surroundings of the enactment of the legislation.

Mr. KNOWLAND. Mr. President, will the Senator yield at that point?

Mr. PEPPER. I yield to the Senator from California.

Mr. KNOWLAND. I think it should be made clear that there is some difference—and I think the Senator from Florida will agree with me—between a statement of the House managers or the

Senate conferees which is printed in advance, and which is available to Members of the House or the Senate before they vote on the acceptance of the conference report, and a statement which is filed, as the Senator from Arizona has pointed out, after the Senate has acted, which Senators obviously could not have taken into consideration in determining whether or not they should vote for the conference report. In the normal course of procedure the statement of the conferees, if printed, would be available to each Member of the Senate and the House prior to action.

This is a statement which was brought in, obviously, after the Senate had already acted on the conference report; and therefore the statement could not in any degree have influenced the Senate in its decision on the conference report.

Mr. PEPPER. Mr. President, there may be a distinction in degree such as that which has been indicated by the Senator from California; but I doubt whether the Members of the Senate came any nearer reading what the managers on the part of the House said than they did in respect to reading this statement. An effort has been made to have this read, and no doubt others have read it.

The only value either one has is the value which we may ascribe to what the author of an instrument says was in his mind when he wrote it.

Since the House conferees stated what was in their minds when they agreed to the conference report, the Senators I have named thought it only appropriate that what was in their minds when they agreed to the conference report should be made manifest. That is the only point I make in connection with this matter.

Mr. DONNELL. Mr. President, will the Senator yield?

Mr. PEPPER. I yield.

Mr. DONNELL. The Senator from Florida has referred to what he considers a distinction in degree between what is now being tendered to the Senate and what was presented by the managers of the conferees on the part of the House prior to the taking of action by the Senate on the conference report. I am not at all prepared to agree that this is merely a distinction in degree. It appears to me that there may be, and doubtless is, a very substantial difference in the actual legal effect of the two documents, and not merely a distinction in degree. To my mind, the Senator from California has very clearly indicated the probable legal difference between the two documents.

However, it appears to me that we are not called upon, here on the floor of the Senate, this evening, to undertake to define whether the statement now presented to us shall be considered the legislative history of the conference report. That will be determined later on, doubtless, if occasion arises, by the appropriate tribunal, perhaps by a court which might pass upon that matter. Personally, I have no objection to having the Senate receive the statement the Senator from Florida has presented. Of course, its legal effect will be a matter for subsequent determination.

The fact is, as I see it, simply that the Senator from Florida, in behalf of himself, the Senator from Utah, and the Senator from Montana, has presented a certain statement, and has asked that it be received by the Senate.

Mr. PEPPER. That is correct.

Mr. DONNELL. Personally, I have no objection to having that done; but I wish to make it as clear as I can that I am making no concession or admission or statement as to whether the legal effect of that document is merely one which differs by some distinction in degree from the legal effect of the document the House conferees had presented.

Mr. President, reference has been made by the Senator from Florida to the attitude of the senior Senator from Ohio [Mr. TAFT] with respect to this matter. While I take it that the Senate has not yet accepted the document presented by the Senator from Florida, I shall proceed, in what I shall say—which will be very brief, I promise—upon the theory that it is accepted; and it may be that as a matter of formally making the record, I shall wish to repeat these two sentences after the Senate has acted upon the request.

I hold in my hand a typewritten statement on behalf of the senior Senator from Ohio [Mr. TAFT]. This typewritten statement reads as follows:

> I cannot agree with the "Summary in Detail of the Provisions of the Bill 'To provide for the amendment of the Fair Labor Standards Act of 1938'," as placed in the RECORD by Senator PEPPER. I do not believe that its treatment of the provision defining the term "produced", the provisions placing reasonable safeguards upon the authority of the Administrator to sue for the collection of back pay, and certain sections of the provisions defining the retail and service exemption constitute an accurate statement of the intent of the conferees or the legal effect of the words of the amendments.

Mr. President, I have read that typewritten statement in behalf of the senior Senator from Ohio. I think that is all I care to say at the moment.

Mr. PEPPER. Mr. President, I ask unanimous consent that immediately following the statement I have asked to have incorporated in the RECORD, there appear the statement of the able Senator from Ohio [Mr. TAFT], which has just been read by the Senator from Missouri [Mr. DONNELL]. I make that request as a modification of my original request.

Mr. WHERRY. Mr. President, will the Senator yield?

Mr. PEPPER. I yield.

Mr. WHERRY. I shall not object to the additional request just made, in view of the situation as it now presents itself; and I shall not object to the request for printing in the RECORD the statement submitted by the Senator from Florida. In all fairness to the Senator from Florida, I think the statement should be placed at the point suggested. I should like to ask whether the Senator will permit a unanimous-consent request to be made, as follows: That if the Senator from Ohio wishes to extend his remarks at this point in the RECORD, he may do so before the permanent RECORD for this session is printed.

Mr. PEPPER. Certainly; Mr. President, I modify my request accordingly, so that if the Senator from Ohio desires to modify or extend his statement, it shall appear in the permanent RECORD immediately following the statement I am offering in behalf of the majority Senate conferees; and, furthermore, if the Senator from Vermont [Mr. AIKEN] wishes to file a statement expressing his views, I also modify my request to include a request that such statement by the Senator from Vermont appear in the permanent RECORD following the statement of the Senator from Ohio, which will immediately follow the one which I hope will appear on my behalf, as I have presented it this evening.

Mr. DONNELL. Mr. President, if the Senator will yield, let me say that in fairness to the Senator from Florida and to the other two Senators mentioned, I think I should have stated that the statement I have referred to has been presented by the Senator from Florida, the Senator from Utah, and the Senator from Montana; and also I think that I should state this fact—which I omitted to mention, but which does appear—namely, that the Senator from Florida, the Senator from Utah, and the Senator from Montana are conferees on the part of the Senate in connection with this measure.

Mr. PEPPER. The principal sponsors in the Senate of this legislation.

Mr. DONNELL. Mr. President, I am not prepared to say whether the word "principal" is proper or is not proper; but they were sponsors of it; and the facts will speak for themselves.

Mr. McFARLAND. Mr. President, will the Senator yield?

Mr. PEPPER. I yield to the Senator from Arizona.

Mr. McFARLAND. In order that the RECORD may be correct, I think this discussion should appear immediately after and along with the filing of the statement.

Mr. PEPPER. I thank the Senator; and, Mr. President, I modify my original request by asking that the entire discussion, when concluded, likewise appear at the conclusion of the adoption of the conference report on yesterday.

The VICE PRESIDENT. Is there objection to the modified request of the Senator from Florida?

Mr. MORSE. Mr. President, reserving the right to object, I wish to ask several questions, if the Senator from Florida will yield to me.

Mr. PEPPER. I yield.

Mr. MORSE. First of all, is this report, on behalf of three Senators who are filing it, who were the majority Senate conferees on this bill, being filed by those three Senators jointly in their capacity as Senate conferees on this bill? That is my question.

Mr. DONNELL. Mr. President, will the Senator yield at this point, before response is made by him to that question?

Mr. PEPPER. I am glad to yield.

Mr. DONNELL. I should like to state that I am not conceding at all that these Senators are still conferees. The conference report has been acted upon, and I am not at all certain that their legal status at this moment is that of conferees. They were conferees, and that is

what I stated. I inadvertently used the word "are" a few moments ago, but they were conferees, and they were three conferees out of five, as I understand the situation.

Mr. PEPPER. Mr. President, I thank the able Senator from Missouri for his legal contribution to improve the accuracy of the statement regarding the situation.

In answer to the Senator from Oregon, I say the statement which was tendered is the statement of the understanding of the conference report, agreed to by the three Senators who were, until the conference report was adopted, the majority of the conferees on the part of the Senate.

Mr. MORSE. My second question is this: Is the report which the Senator from Florida is now filing, the report which the three majority members of the Senate conferees had prepared and were ready to submit to the Senate at the time when the conference report was submitted to the Senate?

Mr. PEPPER. It is.

Mr. MORSE. My next question: Is it not true that this report would have been submitted to the Senate, had it not been for the fact that the minority leader objected, at the time when the conference report itself was presented to the Senate, to the submission of this report, prepared by the three Senate majority conferees, at that time, until the Senate as a whole or until those interested in the report could take a look at it? Is not that a correct statement of fact?

Mr. PEPPER. Let me answer in this way: The Senator from Florida, in presenting the conference report, tendered the statement in question as the expression of the conferees. The statement was accepted by the Senate, at the request of the Senator from Florida. Subsequently, the able Senator from Nebraska requested, by unanimous consent, that the statement be withdrawn, so that an opportunity for its examination might be given; and the Senator from Florida concurring, unanimous consent was given. I think that is literally what occurred.

Mr. KNOWLAND. Mr. President, will the Senator yield?

The VICE PRESIDENT. Does the Senator from Florida yield to the Senator from California?

Mr. PEPPER. I yield.

Mr. KNOWLAND. So that the RECORD may not be confused, I should like it to be clearly shown that the statement which the able Senator from Florida offered was not offered until after the Senate had by its action adopted the report, and that the statement went in after the conference report had been adopted. Is that not correct?

Mr. PEPPER. Mr. President, I stated a while ago in answer to a question by the able Senator from Arizona that the statement was tendered after the Senate adopted the conference report.

Mr. WHERRY. That is correct.

Mr. PEPPER. Frankly, I do not know whether I am correct about that or not.

Mr. WHERRY. That is correct.

Mr. PEPPER. After trying to refresh my recollection about the matter, my present impression is that at the time the conference report was offered, the Senator from Florida presented the statement in question—now, I am not sure about it; so the RECORD had better speak for itself—and also called attention to a certain quoted part of the report, calling attention to the opinion of the conferees that the labor solicitor should receive the highest classification possible. I do not recall—the RECORD had better speak for itself—as to whether that was done before the conference report was adopted.

I think I can now refresh my friend's recollection. He will recall, I think, that it was probably done before the conference report was adopted, because when the Senator from Nebraska raised the question, as the Senator from Florida now remembers, the Senator from Florida asked whether the Senator from Nebraska would allow us to go ahead and have the conference report adopted, and then let the statement be withdrawn, but not to hold up the adoption of the conference report. I believe, now, as I look back on the matter, that is literally what happened. But, Mr. President, I do not think it makes any difference.

Mr. WHERRY. No.

Mr. PEPPER. But this is not intended to bind the Senate. It is simply the expression of what was in the minds of the Senate conferees when the conference report was agreed to, because the Senate conferees thought it only fair that the RECORD should contain their views, since the RECORD already contained a lengthy statement by the managers on the part of the House. That is all it purports to be—what the majority of the Senate conferees thought they were doing when they agreed to the conference report. It is not conclusive. It is simply evidence of the meaning of the words.

Mr. DONNELL. Mr. President, will the Senator yield?

The VICE PRESIDENT. Does the Senator from Florida yield to the Senator from Missouri?

Mr. PEPPER. I yield.

Mr. DONNELL. I agree with the Senator from Florida that the RECORD should speak for itself. I do not think our discussion this evening as to what transpired a day or so ago would be conclusive.

Mr. PEPPER. Certainly. I have it here before me, and I prefer to let the RECORD speak for itself.

Mr. THOMAS of Utah. Mr. President, will the Senator yield?

The VICE PRESIDENT. Does the Senator from Florida yield to the Senator from Utah?

Mr. PEPPER. I am glad to yield to the chairman of the committee.

Mr. THOMAS of Utah. There is not much that can be added to the discussion, but I think it should be said, if it has not been said, that the courts will examine the record, and the judges will interpret the law. We may trust to their correct interpretation. I do not think the courts will ever ask us what we meant. This much should be said: The report was filed by the managers on the part of the House of Representatives, in keeping with a rule of the House. We do not have such a rule, and because we do not, the chairman of the conference suggested we prepare a report, and that it be offered at the time the conference report was submitted in the Senate. That was done.

Mr. President, in asking that the report be prepared, we were following exactly the same custom, the same habit, not necessarily a rule, that was followed when the Fair Labor Standards Act became law. That act required a lengthy conference. It consumed a long time. It will be found of course that the House conferees had their report. I was chairman of the conference, as author of the bill, and I suggested that the Senate conferees also have a report. The report was offered by myself, after the conference report was received and adopted, and without any question at all the Senate of the United States accepted the report as coming from me, on a unanimous-consent request. That is what happened in 1938, and that is what I at least assumed would happen in 1949.

If I may judge from the way in which the courts have interpreted the law and the way in which they have turned to the RECORD, they would turn to that report. On many occasions there have been letters asking for various interpretations, because, as everyone knows, the Fair Labor Standards Act was not only highly controversial but was extremely new so far as the legislative history of the United States was concerned. It still remains so, although the Supreme Court of the United States has sustained it in practically every case that has come before it.

Mr. MORSE. Mr. President, will the Senator yield?

The VICE PRESIDENT. Does the Senator from Florida yield to the Senator from Oregon?

Mr. PEPPER. I yield.

Mr. MORSE. Mr. President, reserving the right to object, I want to point out to the Senator from Florida that we never know how important a discussion such as we are having tonight over the legislative history of a bill may prove to be in the future, when that bill is under litigation. Therefore, I want to ask the Senator from Florida this question——

The VICE PRESIDENT. Does the Senator from Florida yield for a question?

Mr. PEPPER. I yield.

Mr. MORSE. Within the experience of the Senator from Florida has he noted in the Senate that on many occasions when a conference report on a bill is approved by the Senate, the report of the conferees, if the report is filed at the time, frequently is not read to the Senate when the Senate adopts the conference report?

Mr. PEPPER. There is no doubt.

Mr. MORSE. Is not that a common practice in the Senate?

Mr. PEPPER. That is correct.

Mr. MORSE. Is it not true that when the Senator from Florida appeared on the floor of the Senate yesterday afternoon with the report of interpretation of a majority of the Senate conferees he was ready and willing at that time to file as a part of the conference report on the bill a report of interpretation by the majority of the Senate conferees?

Mr. PEPPER. That is correct.

Mr. MORSE. And that he withdrew the report bearing upon the conferees interpretation of the bill and conference action thereon because of the objection that had been raised by the minority leader, until such time as the report could be inspected by other Members of the Senate, so that they might have the courteous privilege of filing, if they wished, a dissenting view as to the interpretations of the majority of the Senate conferees?

Mr. PEPPER. That is correct. And may the Senator from Florida add that today, I was speaking to one of the conferees, the Senator from Vermont [Mr. AIKEN] asking whether he cared to make any report. He replied, "I have not had a chance to study the matter, and I do not care to submit anything now." But he added in the conversation, "That sort of statement of interpretation is exactly the same sort of thing I did one time when I was offering a bill that was passed by the Senate." I do not recall whether it was a similar piece of legislation.

Mr. DONNELL. Mr. President, will the Senator yield?

Mr. PEPPER. I yield.

Mr. DONNELL. I should like to have the RECORD clear that there is no admission made that an ex parte conversation between the Senator from Vermont and the Senator from Florida is any part of the legislative history or is to be entitled to any consideration as such.

Mr. PEPPER. Does the Senator imply that he will claim the benefit of the hearsay rule?

Mr. DONNELL. It would certainly be similar, if not identical.

Mr. MORSE. Mr. President, reserving the right to object, I want to yield, first, to the Senator from Missouri, if he has not finished.

Mr. DONNELL. I have finished for the moment.

Mr. MORSE. Mr. President, I want to say to the Senator from Florida that because I think these conference reports on the interpretation of a bill are sometimes of the greatest importance, so far as I can, in the future, if we are going to run the danger of this type of a situation, I am not going to join in the acceptance of a conference report unless the report of interpretation is filed at the same time. If any question is going to be raised as to the legal status of the report simply because the majority of the conferees withheld filing their report of interpretations until after the Senate took action on the bill as recommended by the conference then I must insist in the future that any report by a majority of the conferees must be filed before the Senate takes action on the bill reported out of conference.

I think it is unfair to lay down the condition which the minority leader is suggesting tonight when as a matter of courtesy this report was withheld a few hours until Members of the Senate could take a look at it. It is not fair at a later time to raise a question as to what is the legal status of the report of interpretation when we all know that the report was offered at the same time the Senate acted on the bill.

The VICE PRESIDENT. Is there objection to the request of the Senator from Florida?

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

SHORT TITLE

The conference agreement adopts the title "Fair Labor Standards Amendments of 1949" included in both the House bill and the Senate amendment.

FINDINGS AND DECLARATION OF POLICY

The conference agreement adopts the provision of the House bill which amended subsection (b) of section 2 of the act by referring to the power of Congress under the Constitution to regulate commerce with foreign nations as well as commerce within the several States. This technical change was made in conjunction with the change made in subsection (b) of section 3 defining the term "commerce," which is hereinafter discussed.

DEFINITIONS

Section 3 of the act, relating to definitions, is unchanged by the conference agreement except that definitions of the terms "commerce," "produced," and "oppressive child labor" are amended and new definitive language is provided for the terms "resale" and "hours worked."

Commerce: The definition of "commerce" in section 3 (b) of the act now covers outgoing foreign commerce "from any State to any place outside thereof" in addition to interstate commerce "among the several States." It does not cover incoming foreign commerce. The conference agreement adopts the provisions of the House bill which amended the definition by substituting the word "between" for the word "from" and the word "and" for the word "to," so that the definition would cover foreign commerce "between any State and any place outside thereof." The effect of the amendment is to eliminate inequalities under the act between employees engaged in foreign commerce based on whether the flow of such foreign commerce is out of a State rather than into it. The amendment will, for example, place employees of importers on an equal footing with employees of exporters under the act.

Produced: Section 3 (b) of the conference agreement amends section 3 (j) of the present act by rewording the clause of the definition which now provides that an employee employed "in any process or occupation necessary to the production" of goods shall be deemed engaged in the production of such goods. The conference agreement inserts the words "closely related" before the words "process or occupation" and substitutes the words "directly essential" for the word "necessary" in the quoted clause, so that the clause, as amended, refers to an employee employed "in any closely related process or occupation directly essential to the production" of the goods.

The amendment made by the conference agreement is intended to provide a more specific guide than does the word "necessary" with respect to the relationship which a process or occupation must have to the production of goods in order for an employee employed in such a process or occupation to be brought within the coverage of the act as an employee engaged in production of such goods.

This change in language does not, however, exclude from the coverage of the act any employees engaged in commerce (as "commerce" is defined in section 3 (b) of the act, as amended by section 3 (a) of the conference agreement), or any employees actually employed in producing, manufacturing, mining, handling, transporting, or in any other manner working on goods for such commerce. All such employees are entitled to the benefits of the act, except as otherwise specifically provided therein. The change in the language of section 3 (j) relates only to those employees not engaged in the foregoing activities, whose coverage under the act has depended in the past on whether their work was "necessary" to the production of goods for interstate or foreign commerce.

What is necessary to production has been the subject of litigation in many hundreds of cases in the courts, and varying interpretations of the meaning of the term as applied in particular fact situations may be found in the decisions. The language of the conference agreement should provide more certainty in this field. It adopts the standard of closely related which the Supreme Court has supplied in most of its decisions interpreting coverage. This language is descriptive of activities which, although not an integral part of the productive operations, have a relationship to production which may reasonably be considered close as distinguished from remote and tenuous. Its reference to activities directly essential to production does not, as did the House bill, require that the activities be indispensable to production. Rather, the conference agreement contemplates activities which directly aid production in a practical sense by providing something essential to the carrying on in an effective, efficient, and satisfactory manner of operations which are part of an integrated effort for the production of goods. Such directly essential activities are to be distinguished from those which are only indirectly essential to production, such as the procurement of land for a new factory or the manufacture of brick for its buildings.

The definition in the present act provides no clear cut-off preventing extension of the coverage of the Act to employees of an enterprise purely local in nature who may incidentally perform some work having a remote or tenuous relationship to the operations of a producer of goods for interstate commerce. It might be argued, for instance, that employees of a local real estate firm renting apartments or dwelling houses to tenants, some of whom are employees of a factory producing goods for interstate commerce, are doing work necessary or even essential to such production because the factory workers could not perform their work without a place to live. Such work would not be closely related and directly essential to production, within the meaning of the conference agreement, and it would therefore be clear that coverage of the real estate firm's employees could not be predicated on the rental of living quarters to factory workers. Of course, this does not mean that the language of the conference agreement withdraws from coverage employees engaged in operating or maintaining living facilities for employees of a producer of goods for interstate commerce, in situations where living facilities such as food and lodging are provided as a means of assuring continued and efficient production and the furnishing of such facilities is therefore closely related and directly essential to production, as in *Consolidated Timber Co.* v. *Womack* (132 F. (2d) 101 (C. A. 9)); *Hanson* v. *Lagerstrom* (133 F. (2d) 180 (C. A. 8)); *Basik* v. *General Motors Corp.* ((Mich. Sup. Ct.), 19 N. W. (2d) 142.)

Typical of the classes of employees whose work is closely related and directly essential to production, within the meaning of section 3 (j) as amended by the conference agreement, are the following employees performing tasks necessary to effective productive operations of the producer:

1. Office or white-collar workers. *Borden Co.* v. *Borella* (325 U. S. 679); *Roland Electrical Co.* v. *Walling* (326 U. S. 657); *Meeker Cooperative* v. *Phillips* (158 F. (2d) 698) (C. A. 2); *Walling* v. *Friend* (156 F. (2d) 429

(C. A. 8)); *Hertz Driveurself Stations* v. *U. S.* (150 F. (2d) 923 (C. A. 8)).

2. Employees repairing, maintaining, improving or enlarging the buildings, equipment, or facilities of producers of goods. *Roland Electrical Co.* v. *Walling*, 326 U. S. 657; *Kirschbaum* v. *Walling* (316 U. S. 517); *Borden Co.* v. *Borella* (325 U. S. 679); *Walling* v. *McCrady Construction Co.* (156 F. (2d) 932 (C. A. 3)); *Walling* v. *Mid-Continent Pipe Line Co.* (143 F. (2d) 308 (C. A. 10)); *Bowie* v. *Gonzales* (117 F. (2d) 11 (C. A. 1)); *Bozant* v. *Bank of New York* (156 F. (2d) 757 (C. A. 2)).

3. Plant guards, watchmen, and other employees performing protective or custodial services for producer of goods. *Walton* v. *Southern Package Corp.* (320 U. S. 540); *Wantock* v. *Armour & Co.* (323 U. S. 126); *Walling* v. *Sondock* (132 F. (2d) 77 (C. A. 5)); *Engebretson* v. *Albrecht* (150 F. (2) 602 (C. A.7)); *Slover* v. *Wathen* (140 F. (2d) 258 (C. A. 4)); *Shepler* v. *Crucible Steel Co.* (140 F. (2d) 371 (C. A. 3)); *Walling* v. *Thompson* (65 F. Supp. 686 (D. C. Calif.)).

The work of such employees is, as a rule, closely related and directly essential to production whether they are employed by the producer of goods or by someone else who has undertaken the performance of particular tasks for the producer.

The work of employees of employers who produce or supply goods or facilities for customers engaged within the same State in the production of other goods for interstate commerce may also be covered as closely related and directly essential to such production. This would be true, for example, of employees engaged in the following activities:

1. Production of tools, dies, designs, patterns, machinery, machinery parts, mine props, industrial sand, or other equipment used by purchaser in producing goods for interstate commerce. *Holland* v. *Amoskeog Machine Co.* (44 F. Supp. 884 (D. C. N. H.)); *Tormey* v. *Kiekhafer Corp.* (76 F. Supp. 557 (E. D. Wis.)); *Walling* v. *Amidon* (153 F. (2d) 159 (C. A. 10)); *Walling* v. *Hamner* (64 F. Supp. 690 (W. D. Va.)); *Roland Electrical Co.* v. *Walling* (326 U. S. 657).

2. Producing and supplying fuel, power, water, or other goods for customers using such goods in the production of different goods for interstate commerce. *Reynolds* v. *Salt River Valley Water Users Asso.* (143 F. (2d) 863 (C. A. 9)); *Phillips* v. *Meeker Coop. Light and Power Asso.* (158 F. (2d) 698 (C. A. 8)); *Lewis* v. *Florida Light and Power Co.* (154 F. (2d) 751 (C. A. 5)); *West Kentucky Coal Co.* v. *Walling* (153 F. (2d) 152 (C. A. 6)).

3. Industrial laundry work for customers engaged in manufacturing, mining, or other production of goods for interstate commerce. *Koerner* v. *Asso. Linen Suppliers Laundry* (279 Ap. Div. 986, 62 N. Y. S. (2d) 774).

The foregoing examples are illustrative, but not exhaustive, of the classes of employees now covered as engaged in processes or occupations "necessary to production" who would remain covered as engaged in activities "closely related" and "directly essential" to production.

Oppressive child labor: Under the conference agreement, the definition of "oppressive child labor" in section 3 (1) of the act is amended to include within that term parental employment of a child under 16 years of age in an occupation found by the Secretary of Labor to be hazardous for children between the ages of 16 and 18 years. This provision was contained in substantially the same form in both the House bill and the Senate amendment, except that the House bill substituted the Administrator of the Wage and Hour Division for the Secretary of Labor. The conference agreement adopts the language of the Senate bill. This provision closes a loophole in the present definition under which a parent or person standing in place of a parent, who may not employ his child in a hazardous occupation if between 16 and 18 years of age, is permitted to employ the child in such an occupation until he becomes 16 years of age.

Resale: Both the Senate amendment and the House bill added a new partial definition of the term "resale" as used in the act. This definition, which appears in section 3 (d) of the conference agreement, is the same as that in the Senate amendment. The effect of this provision is discussed hereafter in connection with the amended sections 13 (a) (2) and 13 (a) (4) of the act, relating to retail and service establishments.

Hours worked: The House bill added a new subsection (o) under which it was provided that time excluded from measured working time during a workweek by the express terms of or by custom or practice under a bona fide collective bargaining agreement applicable to a particular employee was to be excluded in determining whether or not the employee was paid in accordance with section 6 or 7 of the act. The Senate amendment contained no such provision. The conference agreement adopts the provision of the House bill but limits its application to time spent in changing clothes or washing (including bathing) at the beginning or end of each workday.

ADMINISTRATION

Section 4 (a) of the act is amended by the conference agreement by increasing the salary of the Administrator of the Wage and Hour Division from $10,000 to $15,000 per annum. This provision was contained in the House bill.

SPECIAL INDUSTRY COMMITTEES FOR PUERTO RICO AND THE VIRGIN ISLANDS

The conference agreement amends section 5 of the act by limiting its application to the appointment of special industry committees to recommend the minimum rate or rates of wages to be paid under section 6 of the act to employees in Puerto Rico and the Virgin Islands engaged in commerce or in the production of goods for commerce.

The conference agreement follows the provisions of the House bill. In order to preserve existing orders of the Administrator restricting industrial homework in certain industries in the United States outside of Puerto Rico and the Virgin Islands, the conference agreement provides that a new subsection is to be added to section 11 of the act under which all existing regulations or orders of the Administrator relating to industrial homework would be continued in full force and effect, and the Administrator would be authorized to issue such regulations and orders regulating, restricting, or prohibiting industrial homework as are necessary to prevent the circumvention or evasion of, and to safeguard, the minimum wage rate prescribed by the act.

MINIMUM WAGES

The House bill struck out of the provisions of subsection (a) of section 6 paragraphs (1) through (4) and substituted for these paragraphs a new provision under which every employer would be required to pay to each of his employees who is engaged in commerce or in the production of goods for commerce wages at a rate of not less than 75 cents per hour. The House bill also deleted subsection (b) of section 6, the effective date provision applicable to the original 25-cent minimum, which has become obsolete. The Senate amendment made almost identical changes in subsection (a) of section 6. The conference agreement adopts the provisions of the Senate bill.

The House bill also made the following changes in subsection (c) of section 6 with respect to employees in Puerto Rico or the Virgin Islands: the minimum-wage rates established by existing wage orders for employees in Puerto Rican and Virgin Islands industries were continued in effect unless and until superseded by a wage order issued pursuant to the recommendations of a special industry committee appointed pursuant to section 5; and the rates prescribed in any such order were made applicable to every employee in any Puerto Rican or Virgin Islands industry covered by such order who is within the coverage of and not exempt under the provisions of the act, as amended by the bill, including employees who either were not covered by the law as it existed prior to such amendment or were exempted from its application, but who are brought within the application of the law by the bill. The Senate amendment provided that existing wage-order rates for employees in Puerto Rico and the Virgin Islands should continue in effect until superseded by a wage order issued pursuant to the recommendations of a special industry committee appointed pursuant to section 5. The conference agreement adopts the provisions of the House bill with respect to the scope and effect of existing wage orders for employees in Puerto Rican and the Virgin Islands industries but retains the lettering of the Senate bill.

MAXIMUM HOURS

The conference agreement makes extensive revisions of section 7 of the act relating to maximum hours and overtime compensation, by including a definition of regular rate and other provisions affecting the application of the overtime compensation requirements of the act. The conference agreement generally follows the provisions of the House bill. It includes the provision of the Senate amendment extending the overtime exemption provided by subsection (c) to include the first processing of buttermilk into dairy products, a provision also contained in the House bill. The general requirement of the present act, that employment in excess of 40 hours in a workweek shall be compensated at a rate not less than one and one-half times the regular rate at which the employee is employed, is retained. This requirement applies, as under the present act, to employees engaged in commerce or in the production of goods for commerce, except those specifically exempted. Obsolete provisions of the present section 7 and the provision relating to the effective date of the maximum hours provisions of the 1938 act are deleted.

Semiannual and annual employment agreements: Under the conference agreement, section 7 (b) (1) of the act, providing a partial exemption from the overtime pay requirement of section 7 (a) for employees employed under collective-bargaining agreements limiting employment to 1,000 hours in any period of 26 consecutive weeks, is amended by inserting "one thousand and forty hours" in lieu of "one thousand hours." This will permit employment under such agreements for an average workweek of 40 hours during any 26-week period. This provision is adopted from the House bill.

The conference agreement modifies the provisions of section 7 (b) (2) of the act, relating to guaranteed annual employment plans established by bona fide collective bargaining, to provide for greater flexibility. The annual employment guaranteed can be either 2,080 hours (the present figure) or a lesser figure down to a minimum either of 1840 hours or of 46 normal workweeks of not less than 30 hours per week. The exemption from overtime pay for hours worked up to 12 a day or 56 a week will not, as at present, be lost for the entire year with respect to an employee who must be worked at the end of the year for a few hours beyond the present 2,080-hour limit. The conference agreement permits employment in excess of the annual period guaranteed, up to a maximum of 2,240 hours, if not less than time and one-half the regular rate is paid for all hours worked in excess of the guaranteed period which are also in excess of 40 in the workweek or in excess of 2,080 hours in the contract year. This provision is adopted from the House bill.

Section 7 (c) hours exemptions for processing of farm products: The conference

agreement leaves unchanged the hours exemptions provided by section 7 (c) of the act, except for adding buttermilk to the commodities listed in the hours exemption provided for the first processing of milk, cream, skimmed milk or whey into dairy products. Such a provision was contained in both the House bill and the Senate amendment.

Regular rate and crediting of overtime pay: The conference agreement adopts the House provision for a new subsection (d) to section 7, defining "regular rate," as drawn, except for a revision of paragraph (3) of subsection (d). The conference agreement adopts, as a new subsection (g), the crediting provision contained in subsection (g) of the House bill specifying the payments excluded from regular rate which may be credited toward the overtime compensation required by the act.

The conference agreement defines "regular rate" as all renumeration for employment except certain specified types of payments. Each of the seven subdivisions of subsection (d) provides a separate, carefully defined exclusion from regular rate. The classes of payments excluded under the first four subdivisions are not creditable toward overtime payments required by section 7 of the act since they are not payments made for overtime hours worked.

Payments excluded from regular rate and not creditable as overtime pay—section 7 (d) (1), (2): The conference agreement adopts the language of the House provisions excluding from the regular rate (1) bona fide gifts and payments in the nature of gifts made at Christmas time or on other special occasions under specified conditions, and (2) payments which are not made as compensation for hours of employment including payments for occasional periods when no work is performed due to vacation, holiday, illness, failure of the employer to provide sufficient work, and payments as reimbursement for traveling or other expenses under certain conditions.

Section 7 (d) (3): Clause (a) of this subsection of the conference agreement provides for the exclusion from the regular rate of certain sums paid at the sole discretion of the employer in recognition of services performed during a given period of time, and not paid pursuant to a prior contract, agreement, or promise causing the employee to expect such payments regularly. The House bill had the same provision.

The conference agreement, in clauses (b) and (c) of this subsection, provides for the exclusion from the regular rate of certain payments made pursuant to bona fide profit-sharing plans or trusts and of talent fees paid to radio and television performers. These provisions were contained in the House bill. The conference agreement makes these exclusions, but adds language giving the administrator authority to issue appropriate regulations defining the bona fide profit-sharing plans or trusts pursuant to which payments may be made to employees without increasing the regular rate, and regulations defining talent fees. Under the conference agreement, similar provision is made in clause (b) for regulations permitting the exclusion from the regular rate of payments made by employers pursuant to bona fide thrift or savings plans. Such plans were not expressly mentioned in the House provision. The exclusion of such payments is consistent with the spirit and purpose of the act.

Section 7 (d) (4): The conference agreement adopts the language of the House provision excluding from the regular rate contributions irrevocably made by an employer to a trustee or third person pursuant to a bona fide plan for providing old age, retirement, life, accident, or health insurance or similar benefits. This exclusion recognizes that the benefits received by employees as a result of the employer's contributions under such plans are generally received at periods when no work is being performed for the employer, rather than as compensation for hours worked.

Payments excluded from "regular rate" and creditable as overtime premiums—section 7 (d) (5), (6), (7); section 7 (g): The provisions of section 7 (d) (5), (6), and (7), and section 7 (g) of the conference agreement are all adopted from the House bill. Under section 7 (d) (5), overtime premiums paid for hours worked in any day or workweek because such hours are in excess of 8 in a day or 40 in a workweek or in excess of the employee's normal working hours or regular working hours, as the case may be, are expressly excluded from the employee's regular rate of pay. Section 7 (g) provides for the crediting of such premiums toward statutory overtime compensation due for work in excess of 40 hours. In addition, section 7 (d) (6), (7) and 7 (g) continue in effect the provisions of section 7 (e) of the present act (added by act of July 20, 1949, Public No. 177, 81st Cong., 1st sess.) prescribing standards under which extra compensation provided by premium rates of time and one-half or more for work on certain days or at certain hours of the day or week could be excluded from an employee's regular rate and credited as an overtime premium. The conference agreement, following the House bill, expressly places premium pay for work on "regular days of rest" in the same category in section 7 (d) (6) as premium pay for work on Saturdays, Sundays, and holidays. "Regular days of rest" are not mentioned expressly in the present section 7 (e) (1), which deals with work on Saturdays, Sundays, and holidays.

As explained later in this statement under the heading "Retroactive Provisions," the provisions of section 7 (e) of the present act, as retained in section 7 (d) (6), (7) and 7 (g) of the conference agreement, will continue to have retroactive effect as provided in section 2 of the act of July 20, 1949 (Public, No. 77, 81st Cong., 1st sess.).

Contract pay plans: Section 7 (e) of the conference agreement contains a provision that no employer shall be deemed to have violated subsection (a) by employing an employee for a workweek in excess of 40 hours if he is employed pursuant to a bona fide individual contract or collective bargaining agreement, if his duties necessitate irregular hours of work, and the contract or agreement specifies a regular rate of pay not less than the legal minimum and compensation at not less than one and one-half times such rate for the hours worked in excess of 40, and, if, in addition, the contract provides a weekly guaranty of pay for not more than 60 hours based on the rates so specified.

Overtime pay based on rate not obtained by averaging straight-time earnings for workweek: The House bill (sec. 7 (f)) permitted overtime payments for hours worked in excess of 40 in a workweek to be made, subject to certain specified conditions, at time and one-half the bona fide hourly or piece rates applicable to the work performed during such overtime hours. Under this provision employers and employees could agree, in advance of the performance of work, to calculate overtime pay for such work by increasing the applicable hourly or piece rate for a given kind of work by 50 percent during the hours worked after 40 in the workweek, rather than by paying time and one-half the average hourly straight-time earnings for the workweek. This provision of the House bill is adopted in the conference agreement, with two changes: (1) an employment agreement of the type specified in the House provision meets the requirements of this subsection when overtime pay is so calculated for the total number of hours worked by the employee in such workweek in excess of 40 hours, even though some of the hours for which overtime pay is received are worked within the first 40 hours. This makes it unnecessary to recompute the amount due under the statute at the end of the workweek where it is clear that overtime pay, as permitted under this subsection, has been paid for a number of hours of work equivalent to the number worked after 40; (2) an additional clause (3) is inserted, permitting computation of overtime pay at a rate not less than one and one-half times a basic rate established by agreement (which may remain constant from workweek to workweek), if the basic rate so established is authorized by regulation of the Administrator as being substantially equivalent to the average hourly earnings of the employee, exclusive of overtime premiums, in the particular work over a representative period of time.

WAGE ORDERS IN PUERTO RICO AND THE VIRGIN ISLANDS

The House bill limited the application of the provisions of section 8 of the act to industries in Puerto Rico and the Virgin Islands engaged in commerce or in the production of goods for commerce and made necessary clarifying changes in its subsections to carry out this purpose. Subsection (a) stated the policy of the act to reach an objective of a 75-cent minimum wage for such industries as rapidly as economically feasible without substantially curtailing employment. Subsection (b) specified that the minimum-wage rates which a special industry committee recommends, and the Administrator approves, were not to give any industry in Puerto Rico or in the Virgin Islands a competitive advantage over any industry in the United States outside of Puerto Rico or the Virgin Islands. Except for technical changes made necessary by raising the statutory minimum to 75 cents an hour, subsections (c) and (d) of section 8 setting forth the standards and procedures to govern the issuance of wage orders outside of Puerto Rico and the Virgin Islands, were to be the same as under the present act. Since the House bill contained no provisions for the appointment of industry committees to recommend minimum-wage rates with respect to employees in industries in the United States outside of Puerto Rico and the Virgin Islands, subsection (e) of section 8 was no longer necessary and was, therefore, omitted from the House bill. Subsection (f) was retained as subsection (e).

The Senate amendment made no changes in section 8 of the act except to insert the figure "75 cents an hour" for the figure "40 cents an hour" wherever it was used in its several subsections. Under the provisions of the Senate amendment the special industry committee procedures insofar as they were applicable to Puerto Rico's and the Virgin Islands' industries were to be used with a view to bringing the minimum rates in the islands as rapidly as economically feasible up to the 75-cent objective.

The conference agreement adopts the provisions of the House bill. The conference agreement fixes the attainment of a 75-cent minimum in each industry in Puerto Rico and the Virgin Islands, or the highest minimum rates up to that amount, which, having due regard to economic and competitive conditions, will not substantially curtail employment in the industry and will not give the industry in the islands a competitive advantage over the industry in the United States outside of the islands, as the objectives to be sought in wage order proceedings under section 8 of the act.

As is noted elsewhere, the conference agreement provides for adding a new subsection to section 11 under which existing orders of the Administrator restricting industrial homework in a number of industries, which were originally issued under subsection (e) of section 8 of the act, are continued in full force and effect.

INVESTIGATIONS, INSPECTIONS, RECORDS, AND HOME WORK REGULATIONS

The conference agreement adds to section 11 a new subsection (d) under which all existing regulations or orders of the Admin-

istrator relating to industrial home work are continued in full force and effect. The Administrator is authorized to issue such regulations and orders regulating, restricting, or prohibiting industrial home work as are necessary to prevent the circumvention or evasion of, and to safeguard, the minimum wage rate prescribed by the act. The effect of this provision has been explained above in connection with the discussion of the changes made by the conference agreement in sections 5 and 8 or the act.

Consistent with the addition of this new subsection, the title of section 11 has been changed by the conference agreement to read "Investigations, Inspections, Records, and Home Work Regulations."

With respect to the authority of the Secretary of Labor to make investigations and inspections under the child-labor provisions of the act, the conference agreement follows the Senate amendment and leaves unchanged existing law relating to the administration and enforcement of these provisions.

CHILD-LABOR PROVISIONS

The conference agreement follows the House bill, but not the language used in that bill, in adding a proviso to section 12 (a) of the act which would relieve an innocent purchaser of goods produced in an establishment where oppressive child labor was employed. The Senate amendment has contained no similar provision in this connection, but the language of the proviso adopted by the conference agreement is similar to the language used in the Senate amendment of section 15 (a) (1) of the act, discussed hereafter.

The conference agreement follows the Senate amendment and makes no change in existing law with respect to the authority of the Secretary of Labor, or his authorized representatives, to make investigations and inspections under the child-labor provisions and to institute actions for injunctions under section 17 for violations of those provisions.

The House bill provided a new section 12 (b) which directly prohibited the employment of oppressive child labor in commerce or in the production of goods for commerce. The Senate amendment contained identical language as section 12 (c). The conference agreement includes this language as section 12 (c).

EXEMPTIONS

General statement: The Senate amendment substantially revised section 13 (a) (2) of the act relating to retail and service establishments, amended the exemption for children engaged in agricultural activities, amended section 13 (a) (11) relating to telephone switchboard operators, and added exemptions for certain employees engaged in the processing of cotton and cottonseed, for children on radio and television programs, for outside buyers of poultry, eggs, cream, and milk, for newsboys delivering to the consumer, for employees of nonprofit or sharecrop irrigation systems, for home workers engaged in sewing softballs and baseballs, for employees engaged in the first processing of buttermilk, and for employees of certain contract telegraph agencies.

The House bill substantially revised section 13 (a) (2) of the act relating to retail and service establishments, amended section 13 (a) (5) relating to fisheries and sea-food employees, section 13 (a) (8) relating to small newspapers, section 13 (a) (10) the so-called area of production exemption, and added new exemptions affecting employees employed by taxicab companies, children on radio and television programs, by contract telegraph agencies, in logging and sawmilling, in the first processing of buttermilk, by nonprofit agricultural irrigation systems, and rural home workers. The House bill also amended section 13 (b) (2) insofar as carriers by air are concerned by eliminating only the minimum wage exemption.

The provisions of the conference bill are as follows:

Retail and service establishments and related exemptions: The conference agreement clarifies the scope of the present retail or service establishment exemption by providing new language in lieu of that now contained in section 13 (a) (2) of the act. The language of the conference agreement as contained in sections 13 (a) (2), 13 (a) (3), and 13 (a) (4) is based on, and is in substantially the same form as, the provisions which were contained in the Senate amendment.

Section 13 (a) (2) of the conference agreement provides an exemption from both the wage-and-hour provisions of the act with respect to any employee of a retail or service establishment which derives more than 50 percent of its annual dollar volume of sales of goods or services from sales made within the State where it is located. Primarily interstate businesses such as mail-order houses or other establishments whose sales to customers outside the State account for 50 percent or more of its annual dollar volume would continue to be nonexempt under this provision. A local retail or service establishment whose sales made within the State amounted to more than 50 percent of its annual dollar volume would not lose the exemption merely because some of these sales were made to customers engaged in interstate commerce or in the production of goods for commerce. Nor would the exemption be lost because such sales included items not in stock and ordered from another State for the local customer.

The conference agreement defines the term "retail or service establishment," as used in the above exemption, to mean an establishment 75 percent of whose annual dollar volume of sales of goods or of services (or of both) comes from sales which (a) are not for resale and (b) are recognized as retail sales of goods or services in the particular industry.

The term "resale" is used in its ordinary sense to include resale in the same or an altered form. However, the partial definition of "resale" in section 3 (n) of the conference agreement, previously referred to, limits this meaning in one particular situation by providing that the sale of goods to be used in residential or farm building construction, repair, or maintenance is not a sale for resale if such sale is one recognized as a bona fide retail sale in the industry. The language of this provision is the same as that of the House bill (sec. 3 (1)), except that the conference agreement adopts the proviso added by the Senate amendment which is intended to limit the exception provided by section 3 (n) to sales, such as those normally made by essentially retail establishments as distinguished from sales made by wholesalers or representatives of jobbers, for residential and farm building purposes and to leave in the category of sales for resale quantity sales by a dealer acting, in fact, as a wholesaler or a jobber's representative. It is not the intent of the conference agreement to remove from the category of sales for resale such sales, for example, as sales of lumber to a contractor to build a whole residential subdivision.

It is the intent of the conference agreement to place on each employer claiming the exemption the burden of showing that 75 percent of the particular establishment's sales are not for resale and are recognized as retail in the particular industry. It is expected that the Administrator will investigate the facts in particular industries and determine what sales are recognized as retail in such industries. While it is expected that the Administrator will give due weight to the views of trade associations, both in the wholesale and retail fields, the conference agreement does not contemplate that the interpretation of any interested group should be regarded as controlling. Due weight should be given, for example, to the actual practice in the industry. The soundness of the Administrator's conclusions may be tested in the courts.

The conference agreement exempts establishments which are traditionally regarded as retail. Establishments which are not ordinarily available to the general consuming public (such as the motor-carrier repair affiliate considered in *Boutell* v. *Walling* (327 U. S. 463)), and establishments which do not now have the exemption because the selling or servicing in which they are engaged is not considered to be retail (such as banks, insurance companies, credit companies, newspapers, telephone companies, gas and electric utility companies, telegraph companies, etc.) will not become retail or service establishments under the provisions of the conference agreement. Nor does the conference agreement change the status of chain-store warehouses or central offices (such as those held nonexempt in *Phillips* v. *Walling*, 324 U. S. 490), or of establishments selling industrial goods and services to manufacturers engaged in the production of goods for interstate commerce and to other industrial and business customers (such as the establishment held nonexempt in *Roland Electric Co.* v. *Walling* (326 U. S. 657), or of firms renting or maintaining loft or office buildings (such as those held nonexempt in *Kirschbaum* v. *Walling* (316 U. S. 517)).

Section 13 (a) (4) of the conference agreement provides that any employee employed in an establishment which otherwise qualifies as an exempt retail establishment under the tests explained above and is recognized as a retail establishment in the particular industry notwithstanding that goods sold by the establishment are made or processed therein, shall be exempt from the wage and hour provisions if more than 85 percent of the establishment's sale of goods so made or processed, as measured by its annual dollar volume, are made within the same State.

The conference agreement differs somewhat from both the House bill and the Senate amendment. The House bill did not contain the proviso requiring 85 percent of the sales to be made within the State. The Senate amendment added such a proviso, but the proviso referred to 85 percent of the establishment's total annual dollar volume of sales. The proviso in the conference agreement refers to 85 percent of the annual dollar volume of sales of goods made or processed in the establishment. The conference agreement thus prevents such an establishment from receiving the benefit of an exemption while engaging in a large amount of manufacturing for interstate commerce.

This provision is intended to exempt only retail establishments, not factories. The goods must be made or processed at the establishment in which they are sold in order for the exemption to apply. There is no exemption for employees making or processing goods in a manufacturing establishment merely because the goods will ultimately be sold at retail in a retail establishment. Under the present law (*Phillips* v. *Walling* (324 U. S. 490)) a retail establishment means a single physically separate place of business which possesses the characteristics of a retailer and does not mean an entire business enterprise. The conference agreement in no way changes the meaning of the term "establishment." Typical of the establishments which may qualify for exemption under this provision are small bakeries selling locally at retail which bake on the store premises, and local drug stores which may compound some proprietary medicines for retail sale in the same establishment.

Section 13 (a) (3) of the conference agreement adopts the identical language of the House bill and the Senate amendment providing an exemption from both the wage-and-hour provisions of the act for any employee of an establishment engaged in laundering, cleaning, or repairing clothing or fabrics. To qualify for the exemption, however, more than 50 percent of the establishment's annual dollar volume of sales of such services must come from sales made within the State and 75 percent of such annual dollar volume must be derived from services to customers who are not engaged in a mining, manufacturing, transportation, or communications business. Under this provision of the conference agreement, industrial laundries which, directly or through an intermediary, serve customers engaged in manufacturing, mining, communications and transportation businesses do not qualify for any exemption where more than 25 percent of their gross annual income is derived from such industrial laundry work. The conference agreement does, however, exempt employees of a commercial laundry serving such customers as barbers, beauty parlors, doctors' offices, hotels, restaurants and the like, even though the laundry does not perform any ordinary retail services for private individuals, provided its income from customers engaged in manufacturing, mining, comunications and transportation businesses does not exceed 25 percent of its gross annual income.

Fish canning: The House bill continued the wage and hour exemption contained in section 13 (a) (5) of the present act with respect to employees engaged in catching, taking, harvesting, cultivating, or farming of any kind of fish, shellfish, etc., but eliminated the exemption with respect to the processing and canning of fish and extended the 14-workweek partial overtime exemption contained in section 7 (b) (3) of the present act to any industry engaged in the first processing or canning of fish in their raw or natural state. The Senate amendment continued the complete exemption presently contained in the act. The conference agreement adopts substantially the provisions of the House bill by continuing the present wage and hour exemption contained in section 13 (a) (5) of the act with the exception of canning, and, instead of granting a partial overtime exemption as provided in the House bill, the conference agreement grants a complete overtime exemption with respect to any employee employed in the canning of any kind of fish, shellfish, or other aquatic forms of animal or vegetable life, or any byproduct thereof. This overtime exemption is contained in section 13 (b) (4). Under the conference agreement "canning" means hermetically sealing and sterilizing or pasteurizing and has reference to a process involving the performance of such operations. It also means other operations performed in connection therewith such as necessary preparatory operations performed on the products before they are placed in cans, bottles, or other containers to be hermetically sealed, as well as the actual placing of the commodities in such containers. "Canning" also includes subsequent operations such as the labeling of the cans or other containers and the placing of the sealed containers in cases or boxes whether such subsequent operations are performed as a part of an uninterrupted or interrupted process. It does not include the placing of such products or byproducts thereof in cans or other containers that are not hermetically sealed which comes within the complete exemption contained in section 13 (a) (5).

Irrigation workers: The House bill added a new wage and hour exemption as section 13 (a) (16) with respect to any employee employed in connection with the operation and maintenance of ditches, canals, reservoirs, or waterways not owned or operated for profit, which are used exclusively for supply and storing of water for agricultural purposes. The Senate amendment provided an identical exemption as an additional clause to the agricultural exemption contained in section 13 (a) (6) of the present act but added language extending the exemption to such projects operated on a share-crop basis. The conference agreement adopts the Senate amendment as section 13 (a) (6).

Small newspapers: The House bill amended section 13 (a) (8) of the act relating to weekly or semiweekly newspapers by increasing the permitted circulation of an exempt newspaper from 3,000 to 5,000, by extending the exemption to dailies and by permitting the major part of the circulation to be not only within the county where printed and published, but also in counties contiguous thereto, whether or not within the same State. The exemption was renumbered section 13 (a) (9). The Senate amendment made no change in existing law. The conference agreement follows the House bill except that the permitted circulation is limited to 4,000. The numbering of the present section 13 (a) (8) is retained.

Area of production: The House bill amended section 13 (a) (10) of the act by transferring the authority to define "area of production" from the Administrator to the Secretary of Agriculture and renumbered the exemption as section 13 (a) (11). The conference agreement follows the Senate amendment which made no change in existing law. The numbering of the present section 13 (a) (10) is retained.

Small telephone exchanges: The House bill made no change in existing law with respect to the wage and hour exemption provided by section 13 (a) (11) of the act for switchboard operators employed in public telephone exchanges which have less than 500 stations but renumbered this exemption as section 13 (a) (12). The conference agreement adopts the Senate amendment which increased the number of stations to 750, and retains the numbering of the present section 13 (a) (11).

Taxicabs: The House bill added a new section 13 (a) (13) to the act which provided a wage and hour exemption for any employee of an employer engaged in the business of operating taxicabs. The Senate amendment made no change in existing law in this respect. The conference agreement adopts the House provision but renumbers the exemption as section 13 (a) (12).

Contract telegraph agencies: Both the House bill as well as the Senate amendment added a new wage and hour exemption for any employee or proprietor in a retail or service establishment as defined in the amended section 13 (a) (2) with respect to whom the wage and hour provisions would not otherwise apply who are engaged in handling telegraph messages for the public under an agency or contract arrangement with a telegraph company if the telegraph message revenue of the agency does not exceed $500 a month. The conference agreement adopts this provision which is numbered as section 13 (a) (13).

Logging and sawmilling: The House bill added a wage and hour exemption as section 13 (a) (15) of the act which applies to any employee employed in planting or tending trees, cruising, surveying, or felling timber, or in preparing, processing, transporting, or sawing logs or other forestry products in and about a saw mill if the number of employees employed by the employer in forestry or lumbering operations does not exceed 12. The Senate amendment made no change in existing law in this respect. The conference agreement follows the House bill but limits the applicability of the exemption to employees employed in planting or tending trees, cruising, surveying, or felling timber, or in preparing or transporting logs or other forestry products to the mill, processing plant, railroad, or other transportation terminal, if the number of employees employed by the employer in such forestry or lumbering operations does not exceed 12. The exemption is numbered as section 13 (a) (15).

Air carriers: The House bill eliminated the minimum-wage exemption now provided in section 13 (a) (4) of the act for any employee of a carrier by air subject to the provisions of title II of the Railway Labor Act, and continued the maximum hour exemption as section 13 (b) (3) of the act. The Senate amendment made no change in existing law in this respect. The conference agreement adopts the House provision as section 13 (b) (3).

Outside buyers of poultry and dairy products. The House bill made no change in existing law with respect to outside buyers of poultry or dairy products. The Senate amendment added a maximum hour exemption as section 13 (f) of the act, which applies to any individual employed as an outside buyer of poultry, eggs, cream, or milk in their raw or natural state. The conference agreement adopts the Senate amendment as section 13 (b) (5).

Child labor: Section 13 (c) of the existing law makes the child-labor provisions inapplicable with respect to employees employed in agriculture while not legally required to attend school and with respect to any child employed as an actor in motion pictures or theatrical productions. The House bill broadened the exemption for actors by extending it to performers and by adding the words "or in radio or television productions" after the words "motion pictures or theatrical productions," but it made no change in existing law in the provision relating to agriculture. The Senate amendment was identical with the House bill with respect to the child-labor exemption relating to actors in motion pictures or theatrical productions. The Senate amendment also changed the child-labor agricultural exemption by substituting for the words "while not legally required to attend school" the language "outside of school hours for the school district where such employee is living while he is so employed." The conference agreement adopts the provisions contained in both the House bill and the Senate amendment which broadens the child-labor exemption applicable to motion pictures and theatrical productions and also adopts the Senate amendment with respect to the child-labor agriculture exemption. The present numbering of this section is retained.

Newspaper carrier boys: The House bill provided no special exemption for newsboys. The Senate amendment added an exemption as section 13 (e) of the act which provided a complete minimum wage, maximum hour and child-labor exemption with respect to any employee engaged in the delivery of newspapers to the customer. The conference agreement adopts the Senate provision as section 13 (d).

LEARNERS, APPRENTICES, AND HANDICAPPED WORKERS

The conference agreement follows the House bill in not effecting extensive changes in the provision in section 14 of the present act which permits the employment of messengers employed exclusively in delivering letters and messages at subminimum rates, under regulations or orders of the Administrator as described in that section. The conference agreement, however, follows the Senate amendment in substituting the word "primarily" for "exclusively" in the abovementioned clause of section 14 of the present act.

PROHIBITED ACTS

The conference agreement adopts the language of the Senate amendment, which provided for the addition of language to section 15 (a) (1) designed to make it lawful for an innocent purchaser in good faith of goods produced in violation of the act to sell

such goods in commerce. The House bill contained a somewhat similar provision. This provision protects an innocent purchaser from an unwitting violation, and from having goods which he has purchased in good faith tied up from shipment in commerce by a "hot goods" injunction. An affirmative duty is imposed upon him to ascertain that the goods in question were produced in compliance with the act, and he must have secured written assurance to that effect from the producer of the goods. The requirement that he must have made the purchase in good faith is comparable to similar requirements imposed on purchasers in other fields of law, and is to be subjected to the test not only of honest intention, but also of what a reasonable prudent man, acting with due diligence, would have done in the circumstances.

Section 15 (a) (5) is amended to add to prohibited acts violation of regulations of the Administrator regarding industrial home work pursuant to section 11 (d).

PENALTIES

Both the Senate amendment and the House bill add to section 16 a new subsection (c) authorizing the Administrator to supervise the payment of the unpaid minimum wages or overtime compensation owing to any employee or employees under section 6 or section 7 of the act and provided that agreement by any employee to accept such payment should, upon payment in full, constitute a waiver of any right he might have under section 16 (b). The Senate amendment authorized the Administrator at the request or with the consent of any employee to bring an action to recover any unpaid minimum wages or unpaid overtime compensation owing to such employee under section 6 or section 7 of the act. It was provided that the Administrator might join in one cause of action the claims of any employees similarly situated who consented thereto. It was also provided that the consent of any employee to the bringing of any such action constituted a waiver of any rights he might have under section 16 (b) unless the action were dismissed without prejudice upon motion by the Administration. The Senate amendment also contained a provision that the authority given to the Administrator in section 16 (c) should not be construed as affecting in any way the equitable jurisdiction of the courts under section 17. The conference agreement adopts the Senate amendment in revised form.

The conference agreement omits from section 16 (c) the provision authorizing the Administrator to join in one cause of action the claims of employees similarly situated who consent thereto. Under the conference agreement for purposes of suits under this section the rules of civil procedure of the district courts of the United States are unaffected as to actions brought by the Administrator to collect back wages and apply as in any other civil actions brought in the district courts of the United States. In like manner, the rules applicable to civil actions in the courts of the several States and Territories will apply to actions brought by the Administrator in the courts of such States and Territories under section 16 (c).

The conference agreement intends that the 2-year statute of limitations provided in the Portal-to-Portal Act of 1947 shall be applicable to suits under section 16 (c).

In place of the provision deleted from the Senate amendment to which reference has been made, the conference agreement inserted a proviso to the effect that the authority of the Administrator to bring such actions under section 16 (c) shall not be used in any case involving an issue of law which has not been settled finally by the courts. Jurisdiction over such actions or proceedings involving such issue of law is denied to the courts. It is not the intention of the conferees to withdraw decision of the question of jurisdiction under this provision from the court. Thus, the mere raising of a legal issue in a pleading would not bar the court from determining the issue of jurisdiction of an action involving a legal issue as to which, in its judgment, an issue of law shall have been finally decided by a court. Furthermore, such court would have authority to make a determination that an issue of law was not involved even though such an issue had been raised in the pleadings. The proviso is intended to preclude the Administrator from pioneering new law or bringing test cases under the provisions of section 16 (c). It is not intended, however, to preclude the Administrator from instituting, or the court from taking jurisdiction, on the basis of existing legal precedence under the Fair Labor Standards Act of 1938, as amended, except to the extent that they are changed by the amendments made by the conference agreement.

INJUNCTION PROCEEDINGS

The Senate amendment changed section 17 of the act to include a more precise description of the United States courts having jurisdiction of actions to restrain violations. The legal effect of both versions was the same. The conference agreement adopts the Senate version with a proviso to the effect that no court shall have jurisdiction, in any action brought by the Administrator to restrain violations of section 15, to order payment to employees of unpaid minimum wages or unpaid overtime compensation or an additional equal amount as liquidated damages. This proviso has been inserted in section 17 of the act in view of the provision of the conference agreement contained in section 16 (c) of the act which authorizes the Administrator in certain cases to bring suits for damages for unpaid minimum wages and overtime compensation owing to employees at the written request of such employees. It is not intended that if the Administrator brings an action under section 16 (c) he is thereby precluded from bringing an action under section 17 to restrain violations of the act. Similarly, the bringing of an injunction action under section 17 will not preclude the Administrator from also bringing in an appropriate case an action under section 16 (c) to collect unpaid minimum wages or overtime compensation owing to employees under the provisions of the law. Nor is the provision intended in any way to affect the court's jurisdiction or authority in contempt proceedings for enforcement of injunctions issued under section 17 for violations occurring subsequent to the issuance of such injunctions. It is intended to deprive the courts of jurisdiction to exercise their equity power to order back wages in purely injunctive actions, as was done in *McComb* v. *Scerbo* (C. A. 2; 17 Labor Cases, par. 65, 297).

MISCELLANEOUS AND EFFECTIVE DATE

Effective date: Section 16 (a) of the conference agreement provides that, except for the amendment made by section 4 of the conference agreement which is to take effect upon the date of its enactment, the fair labor standards amendments of 1949 shall become effective 90 days from the date of enactment thereof. This is, in effect, a compromise between the House bill which provided for an effective date of 60 days from the date of enactment (except that the provisions of section 7 were to take effect from and after the date of enactment) and the Senate amendment which provided that its amendments to the Fair Labor Standards Act should become effective upon the expiration of 120 days from the date of enactment thereof.

Portal-to-Portal Act: Section 16 (b) of the conference agreement adopts the Senate provision, amended to exclude the provisions of section 3 (o) of the conference agreement (defining hours worked) from the operation of this section. Under the Senate amendment, except for the provision added by the Senate amendment dealing with the date for commencement of actions brought by the Administrator with respect to claims for unpaid minimum wages or overtime compensation owing to employees under the act, no amendment made by the new act should be construed as amending, modifying, or repealing any provision of the Portal-to-Portal Act of 1949. The House bill contained a similar provision but did not provide for any exceptions.

Existing orders: Section 16 (c) of the conference agreement follows the House bill (except that in accordance with the conferees' decision to make no change with respect to the administration of the act the references to the Secretary of Agriculture contained in the House bill have been changed to references to the Secretary of Labor) in providing that the orders, regulations, and interpretations of the Administrator or of the Secretary of Labor, and agreements entered into by them, in effect on the date of enactment of the fair labor standards amendments of 1949 should remain in effect, except to the extent that they are inconsistent with the provisions of the amendment or might from time to time be amended, modified, or rescinded in accordance with the provisions of such amendments. The Senate amendment did not contain any provisions dealing with this matter.

Existing liabilities: Section 16 (d) of the conference agreement follows the House bill in providing that penalties or liabilities with respect to any act or omission occurring prior to the effective date of the fair labor standards amendments of 1949 should not be affected by any amendment made therein, except that after 2 years from such effective date no action was to be instituted under section 16 (b) with respect to any liability accruing thereunder for any act or omission occurring prior to the effective date. Under this provision the rights and liabilities for past acts are unaffected, the rights of the United States in respect to criminal prosecutions and of employees under section 16 (b) will be saved, and the injunctions previously issued by the courts under section 17 retain their validity except to the extent that the acts or omissions on which the injunctions were based are no longer unlawful under or prohibited by the amendments made by the conference agreement. The 2-year limitation provision as to section 16 (b) actions is similar to section 6 of the Portal-to-Portal Act of 1947. The Senate amendment did not contain such a provision.

Retroactive provisions: Section 16 (e) of the conference agreement follows the approach of the House bill in giving retroactive effect to sections 7 (d) (6), 7 (d) (7), and 7 (g) of the Fair Labor Standards Act of 1938, as amended by the conference agreement. Under this provision, which is identical in effect to section 2 of Public Law 177, Eighty-first Congress, first session, no employer shall be subject to any liability or punishment under the Fair Labor Standards Act of 1938, as amended, in any action or proceeding commenced prior to or on or after the effective date of the conference agreement on account of the failure of said employer to pay an employee compensation for any period of overtime work performed prior to July 20, 1949 (the effective date of Public Law 177, 81st Cong., 1st sess.), if the compensation which would have been payable therefor had sections 7 (d) (6), 7 (d) (7) , and 7 (g) of the Fair Labor Standards Act of 1938, as amended by the conference agreement, been in effect at the time of such payment. The Senate amendment contained no such provision.

Repeal of Public Law 177, Eighty-first Congress, first session: Section 16 (f) of the conference agreement contains a new provision repealing the Act of July 20, 1949, which is no longer necessary in view of the incorporation of the substance of section 1 of that act in sections 7 (d) (6), 7 (d) (7), and 7 (g) of the Fair Labor Standards Act

of 1938, as amended by the conference agreement, and, further, in view of the incorporation of section 2 of that act in section 16 (e) of the conference agreement.

Statement submitted by the Senator from Ohio [Mr. TAFT].

On October eighteenth Senator PEPPER submitted a statement expressing the views of a majority of the Senate conferees as to the intentions of the conference which prepared the conference report on the Minimum Wage bill. It seems to me that this report was prepared in the first instance by the attorneys for the Wage-Hour Administration in an effort on their part to retain jurisdiction in various fields which the conference report clearly intended to take away from them. The Wage-Hour Administration for years has been trying to extend its jurisdiction beyond the field provided by Congress and is now trying to nullify the present Congressional action.

The conference committee never considered this statement, or summary, nor was there ever any meeting of the Senate conferees to consider or discuss it. My own view is that the report and the act finally adopted speaks for itself. I am quite certain that the conclusions of the report submitted by the senior Senator from Florida as to the intentions of the conferees are incorrect in many important particulars, and that the report of the House Managers is much closer to their actual intentions.

Since other individual views have been submitted, however, I have prepared a partial discussion of some of the points at issue and submit it herewith.

Considered in its entirety the summary submitted by the senior Senator from Florida does not state what the amendments are intended to accomplish. Its approach is a negative one of pointing out what the amendments are not intended to accomplish. This is especially true with respect to those amendments which were introduced to limit the coverage of the Act as interpreted by the Administrator and the courts. For example, the retail and service establishment exemption adopted by the overwhelming vote of the Senate was intended to prevent the Administrator and the courts from asserting coverage over those retail and service businesses on the main streets of America which were never intended to be covered when the original Act was written in 1938.

Likewise the conferees agreed to a redefinition of the term "produced" intending to prevent extension of coverage to such operations as "window cleaning" and "grass cutting" on the farfetched theory that such operations are "necessary" to the production of goods. We specifically authorized "Belo" type contracts because the Administrator, refusing to accept the decision of the Supreme Court which had held such plans to be in conformity with the Act, had made a series of attempts to modify or overrule that case. The summary, prepared in the office of the Administrator, in many instances seeks to confirm those very interpretations of coverage which the conferees were seeking to reverse.

PRODUCED

The conferees in their meetings had before them a memorandum setting forth specific cases showing the extreme lengths to which the Administrator and the courts had gone in interpreting the term "produced." The conferees were in agreement that such cases should be overruled. The cases discussed and the agreement of the conferees are set forth in detail at pp. 14–15 of the Statement of the Managers on the Part of the House.

During the meetings of the conference committee the House conferees insisted that the definition of the term contained in the House bill be agreed to. They yielded only to the extent of agreeing to substitute the words "directly essential" for the word "indispensable" in the definition. It was understood by both the House and Senate conferees, however, that the definition as finally agreed to was intended to have a substantially limiting effect upon the coverage of the Act as heretofore interpreted by both the Administrator and the courts. Nothing is more clear than that there would never have been any conference agreement on a minimum wage bill, had the Senate conferees not agreed to such narrowing of the Act's coverage.

The summary, however, in effect states that the redefinition of "produced" has not had the effect of cutting down the coverage of the Act at all, but has merely provided a more specific guide and created more certainty as to coverage. His summary concedes only that under the redefinition, coverage is not to be extended to the following activities or employees:

1. Procurement of land for a new factory.
2. Manufacture of bricks or new factory buildings.
3. Employees of a local real-estate firm renting apartments or dwelling houses to tenants, some of whom are employees of a factory producing goods for interstate commerce.

But no change in the definition was needed to assure that the Act would not be extended to such activities or employees, since neither the Administrator nor the courts had ever held or even hinted that such activities or employees were covered.

The summary is chiefly concerned with pointing out that the redefinition of "produced" has done no more than to confirm all outstanding interpretations of such term—both administrative and judicial. For example, it cites *Consolidated Timber Co.* v. *Womack*, 132 F. (2d) 101 (C. C. A. 9); *Hanson* v. *Lagerstrom*, 133 F. (2d) 120 (C. C. A. 8) and *Basik* v. *General Motors Corp.*, 311 Mich. 705, 19 N. W. (2d) 142, as authority for the proposition that coverage has not been withdrawn from "employees engaged in operating or maintaining living facilities for employees of a producer of goods for interstate commerce, in situations where living facilities such as food and lodging are provided as a means of assuring continued and efficient production." The employees in such cases were cook-house employees in a lumber camp and cafeteria workers in an industrial plant, providing eating facilities for employees engaged in producing goods for interstate commerce. There may be situations where such services are "closely related" and "directly essential" but the conferees never intended to create such broad coverage as the quoted passage indicates.

I am in agreement with the summary that under the redefinition of "produced" the Act continues to apply to office workers, plant guards, watchmen and maintenance workers of the primary employer engaged in producing goods for commerce as well as to production employees of tool and die concerns and public utilities furnishing things without which the primary employer could not conduct his business. Many of the cases the summary cites, however, go far beyond the situations to which I have just referred. For example, it cites:

1. *Roland Electrical Co.* v. *Walling*, 326 U. S. 657—*office* employees of a firm, which made, repaired or maintained machinery for customers within the State who used same in producing goods for interstate commerce.

2. *Meeker Cooperative* v. *Phillips*, 158 F. (2d) 698 (C. C. A. 8)—*office* employees of an electric-power company supplying electrical energy to customers within the State for use by the latter in producing goods for interstate commerce.

3. *Borden* v. *Borella*, 325 U. S. 679—employees maintaining, servicing and guarding an office building owned by an interstate manufacturing company and occupied primarily by its executive and administrative offices.

4. *Walling* v. *McCrady Construction Co.*, 156 F. (2d) 932 (C. C. A. 3)—employees of a construction company some of whom were engaged in constructing new facilities for existing interstate manufacturing plants.

5. *Bozant* v. *Bank of New York*, 156 F. (2d) 787 (C. C. A. 2)—custodial and maintenance employees of an office building occupied by lawyers, brokers and banks. Coverage was asserted as to the custodial and maintenance employees because the banks prepare, execute or validate bonds, shares of stock etc. some of which move out of the State.

6. *Tormey* v. *Kiekhafer Corp.*, 76 F. Supp. 557 (E. D. Wis.)—employees doing research and experimental work for an interstate manufacturer. Their work was abandoned and no new or improved products were shipped in commerce as a result of their activities.

7. *Walling* v. *Hamner*, 64 F. Supp. 690 (W. D. Va.)—employees of a sawmill operator who produced and sold mine props within the State to supply companies, which in turn sold them also within the State to interstate-coal companies for use in producing coal for interstate commerce. The employer also made mine props for a coal company within the State which produced coal that it transformed into coke and shipped out of the State.

RETAIL AND SERVICE ESTABLISHMENTS AMENDMENTS

The summary states that the retail and service establishment exemption provided by the amended Section 13 (a) (2) is not intended to apply to establishments which are not ordinarily available to the general consuming public, citing *Boutell* v. *Walling*, 327 U. S. 463, which involved a repair garage serving exclusively an affiliated interstate motor carrier. I agree that the rule of the *Boutell* case is not changed by the amendment made to Section 13 (a) (2), because the establishment involved in that case is the same as the repair department operated by the interstate-motor carrier itself and its servicing would not be recognized as retail in the industry. The conferees intended, however, that the exemption should apply to any establishment meeting the tests set forth in the amended Section 13 (a) (2) regardless of its location, whether in an industrial plant, an office building, a railroad depot, a government park, etc., even though arguably establishments so located are not ordinarily available to the general consuming public. See p. 25 of the House Managers statement which sets forth the agreement of the conferees on this matter.

In its discussion of the 13 (a) (4) amendment the summary states:

"The goods must be made or processed at the establishment *in which* they are sold in order for the exemption to apply." (Italics added.)

This statement appears susceptible of being construed to mean that although an establishment is otherwise exempt under Section 13 (a) (4), it might lose its exemption unless all the goods it makes or processes are sold across the counter, dock or platform of said establishment. Such an interpretation would be inconsistent with the intent of the conferees. Exemption is not to be denied an establishment under Section 13 (a) (4) because it sells substantial quantities of the goods it makes or processes through driver salesmen rather than across the counter, dock or platform.

This is only a partial statement of my disagreement with the summary prepared by the Wage-Hour Administration.

Mr. LUCAS obtained the floor.

Mr. DONNELL. Mr. President, will the Senator from Illinois yield for just a moment?

Mr. LUCAS. I yield.

Mr. DONNELL. Mr. President, I stated a few moments ago that I might want to reread these two sentences, because they refer to a "summary" placed in the RECORD by the Senator from Florida [Mr. PEPPER]. At the moment I read this statement the document had not been placed in the RECORD. Therefore, on behalf of the senior Senator from Ohio [Mr. TAFT], I make this statement:

I cannot agree with the summary in detail of the provisions of the bill to provide for the amendment of the Fair Labor Standards Act of 1938 as placed in the RECORD by Senator PEPPER. I do not believe that its treatment of the provisions defining the term "produced," the provisions placing reasonable safeguards upon the authority of the Administrator to sue for the collection of back pay, and certain sections of the provisions defining the retail and service exemption constitutes an accurate statement of the intent of the conferees or the legal effect of the words of the amendments.

PURCHASE OF CERTAIN INDIAN LANDS—CONFERENCE REPORT

Mr. KERR. Mr. President, I submit a conference report on the joint resolution (H. J. Res. 33) providing for the ratification by Congress of a contract for the purchase of certain Indian lands by the United States from the Three Affiliated Tribes of Fort Berthold Reservation, N. Dak., and for other related purposes, and I ask unanimous consent for its present consideration.

The VICE PRESIDENT. The report will be read for the information of the Senate.

The report was read, as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the joint resolution (H. J. Res. 33) providing for the ratification by Congress of a contract for the purchase of certain Indian lands by the United States from the Three Affiliated Tribes of Fort Berthold Reservation, North Dakota, and for other related purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate numbered 2 and to the amendment of the Senate to the title of the joint resolution, and agree to the same.

Amendment numbered 1: That the House recede from its disagreement to the amendment of the Senate numbered 1, and agree to the same with an amendment, as follows: In lieu of the matter inserted by the Senate amendment, insert the following: "That, if within six months from the date of its enactment the Three Affiliated Tribes of the Fort Berthold Reservation accept the provisions of this Act by an affirmative vote of a majority of the adult members, the sums herein provided for shall be made available as herein specified; and all right, title and interest of said tribes, allottees and heirs of allottees in and to the lands constituting the Taking Area described in section 15 (including all elements of value above or below the surface) shall vest in the United States of America.

"SEC. 2. The fund of $5,105,625 appropriated by the War Department Civil Appropriation Act, 1948 (Public Law 296, Eightieth Congress), shall not lapse into the Treasury as provided therein, but shall be available for disbursement under the direction of the Commissioner of Indian Affairs, Bureau of Indian Affairs, United States Department of the Interior (hereinafter called the 'Commissioner') for the following purposes:

"(a) Payment for tribal and allotted Indian lands and improvements, including heirship interests, and values above and below the surface, within the Taking Area;

"(b) Costs of relocating and reestablishing the members of the tribes who reside within the Taking Area; and

"(c) Costs of relocating and reestablishing Indian cemeteries, tribal monuments, and shrines within the Taking Area.

Any unexpended balance remaining from the said fund of $5,105,625 after the completion of the purposes set forth in subsections (a), (b), and (c) shall remain in the Treasury to the credit of the tribes.

"SEC. 3. There is hereby established a board of appraisal which shall consist of one member designated by the Secretary of Agriculture, one member designated by the Secretary of the Interior, and one member designated by the Chief of Engineers. It shall be the duty of the board to prepare an appraisal schedule of the tribal and individual allotted lands and improvements, including heirship interests, located within the Taking Area. In the preparation thereof, the board shall determine the fair value of the land and improvements, giving full and proper weight to the following elements of appraisal: Value of any tract of land, whether full interest or partial interest, including value of standing timber, mineral rights, and the uses to which the lands are reasonably adapted. Upon completion of the said schedule of appraisal it shall be submitted to the Chief of Engineers.

"SEC. 4. Upon receipt of such schedule of appraisal by the Chief of Engineers, he shall transmit to the tribal council the schedule of appraisal in its entirety and such portions of the said schedule to individual Indians as relate to their respective interests. The tribal council and the interested individual Indians shall have ninety days from the date of receipt of such schedule of appraisal in which to present to the Commissioner their objections, if any, for consideration and action thereon.

"SEC. 5. The right of the tribes and of the allottees and heirs of allottees to accept or reject the appraisal covering their respective property is reserved to them. Upon the rejection of the appraisal affecting the lands or the respective interests, the Department of the Army shall institute proceedings in the United States District Court for North Dakota for the purpose of having the just compensation for such property judicially determined. Any judgment entered against the United States in such proceedings shall be charged against the said fund of $5,105,625: *Provided*, That if said sum should be inadequate to cover the purposes provided for in section 2 (a), (b) and (c) hereof, and such judgments as may be obtained in such proceedings, then the amount in excess of the said fund of $5,105,625 shall be paid out of the $7,500,000 provided for in section 12 hereof.

"SEC. 6. In all proceedings instituted in accordance with section 5 of this Act, individual members of the tribes may request the Commissioner of Indian Affairs to designate attorneys of the Bureau of Indian Affairs to represent them.

"SEC. 7. The amount determined to be due the individual allottees and other individual Indians shall be deposited to the credit of such individual Indians in their individual Indian money accounts.

"SEC. 8. The tribes and the members thereof may salvage, remove, reuse, sell, or otherwise dispose of all or any part of their improvements within the Taking Area without any deduction therefor in the appraisal schedule to be prepared by the Commissioner, subject to the condition that the district engineer, Garrison district, may not enter for the purpose of clearing the said improvements until at least October 1, 1952, and subject further to the condition that the district engineer shall serve notice of such purpose at least three months prior thereto.

"SEC. 9. The tribes and the members thereof shall have the privilege of cutting timber and all forest products and removing sand and gravel, and may use, sell, or otherwise dispose of the same until at least October 1, 1950, without any deduction therefor in the appraisal schedule to be prepared by the Commissioner, subject to the condition that the said date may be adjusted to a later date by the Chief of Engineers on the request of the Commissioner, and subject to the further conditions that the district engineer, Garrison district, shall serve notice of clearing at least three months prior thereto.

"SEC. 10. The tribes and the members thereof may remove, sell, or otherwise dispose of lignite until such date as the district engineer, Garrison district, fixes for the impoundment of waters.

"SEC. 11. The district engineer, Garrison district, will give notice at least six months in advance of the date on or after which impoundment of waters may begin, and no damage for loss of life or property due to impoundment of waters on or after the date specified in said notice may be claimed. The date established by such notification will not be earlier than October 1, 1952.

"SEC. 12. In addition to the $5,105,625 appropriated by the War Department Civil Appropriation Act, 1948 (Public Law 296, 80th Cong.), the further sum of $7,500,000 less any part thereof that may be required to cover balance due said tribes or allottees or heirs as provided for in section 5 hereof shall, upon acceptance of the provisions of this Act by the tribes, be placed to the credit of the tribes in the Treasury of the United States, which sums notwithstanding anything contained in this Act to the contrary shall be in full satisfaction of: (1) all claims, rights, demands, and judgments of said tribes or allottees or heirs thereof arising out of this Act and not compensated for out of the said $5,105,625; (2) and of all other rights, claims, demands, and judgments of said tribes, individual allottees or heirs thereof, of any nature whatsoever existing on the date of enactment of this Act, whether of tangible or intangible nature and whether or not cognizable in law or equity in connection with the taking of said land and the construction of said Garrison Dam Project.

"SEC. 13. The fund of $5,105,625, appropriated by the War Department Civil Appropriation Act, 1948 (Public Law 296, 80th Cong.), and the fund provided for by section 12 of this Act shall bear interest at 4 per centum per annum from the date of acceptance of this Act until disbursed. No part of either of such funds shall be used for payment of the fees or expenses of any agent, attorney, or other representative of any individual Indian or tribe.

"SEC. 14. When electric power is available from Garrison Dam Project, the said Three Affiliated Tribes and the members thereof shall have equal rights and privileges on an equal basis which are accorded the persons, cooperative associations, and others by the Rural Electrification Act of 1936 and all Acts amendatory thereof or supplemental thereto as fully as if said Tribes and members thereof were named in said Rural Electrification Act of 1936.

"SEC. 15. The Taking Area is described as follows:

"PART A—WITHIN RESERVATION BOUNDARIES

"Beginning at the Northwest corner of Section 6, Township 150 North, Range 93 West of the 5th P. M.; thence East to the West sixteenth line; thence South to the East and West quarter line; thence East to

center of said Section; thence South to South quarter corner; thence East to the"; and the Senate agree to the same.

ROBERT S. KERR,
ERNEST W. MCFARLAND,
ZALES N. ECTON,
ARTHUR V. WATKINS,
Managers on the Part of the Senate.

TOBY MORRIS,
JOHN R. MURDOCK,
WESLEY A. D'EWART,
WILLIAM LEMKE,
Managers on the Part of the House.

The VICE PRESIDENT. Is there objection to the present consideration of the conference report?

There being no objection, the report was considered and agreed to.

THE CALENDAR

Mr. LUCAS. Mr. President, yesterday I announced that we would have a call of the calendar, beginning with Calendar No. 1191, Senate bill 1019, which is the beginning of the bills which were reported on October 17.

I now ask unanimous consent, if the Senator from Oregon will permit——

The VICE PRESIDENT. The Senator from Oregon has the floor. Does he yield for this purpose?

Mr. MORSE. Mr. President I am very happy to yield to the Senator from Illinois for this purpose, if my rights are protected.

Mr. LUCAS. I thank the Senator; and I ask unanimous consent that that be understood.

The VICE PRESIDENT. Without objection, it is so ordered.

Mr. LUCAS. Mr. President, I now ask unanimous consent that the Senate proceed to the consideration of the calendar, beginning with Calendar No. 1191, Senate bill 1019. I thank the Senator from Oregon for his kindness in this connection.

The VICE PRESIDENT. Is there objection?

Mr. WHERRY. Mr. President, reserving the right to object—and let me say that I wish to comply with the request made by the majority leader—I wish to say that I am wondering whether there is on the calendar any measure which will necessitate a quorum call. I do not wish to suggest the absence of a quorum.

Mr. LUCAS. I suggest to the minority leader that we proceed now with the call of the calendar.

Mr. WHERRY. Very well.

Mr. LUCAS. And in the event that some Senator who is not here during the call desires to object to any of these bills or other measures, I will make a motion, tomorrow, to reconsider.

Mr. WHERRY. That is fair enough; and, of course, it is understood that any Senator can make objection to the the consideration of any of these measures, because they are on the Consent Calendar.

Furthermore, if a bill is passed and the Senator who might have objected is not here, it is my understanding the majority leader states he will tomorrow move to reconsider.

Mr. LUCAS. I shall move to reconsider, and have action taken by the Senate, tomorrow, if possible.

The VICE PRESIDENT. Is there objection to the request of the Senator from Illinois to proceed to the call of the calendar, beginning with the number indicated?

Mr. SCHOEPPEL. Mr. President, I think it was definitely understood, as the majority leader will recall, with respect to some of the Senators who were here yesterday, that they expressly wanted a quorum call in the event the calendar was called. I certainly should want to object unless that is done.

Mr. LUCAS. I withdraw my motion, for the moment, Mr. President.

HEADQUARTERS OF THE FOOD AND AGRICULTURE ORGANIZATION OF THE UNITED NATIONS

The VICE PRESIDENT. The Chair suggests it was agreed yesterday that the joint resolution (S. J. Res. 128) be taken up, and it would probably have priority over the calendar, in view of the agreement. Is it desired to take up the resolution? It has relation to the United Nations. The Senator from Florida [Mr. PEPPER] is interested in it.

Mr. PEPPER. Is that the FAO?

The VICE PRESIDENT. It is Senate Joint Resolution 128.

Mr. PEPPER. No objection has been interposed to it, I believe. I ask unanimous consent that the Senate proceed to the consideration of the joint resolution.

The VICE PRESIDENT. The clerk will state the joint resolution by title.

The LEGISLATIVE CLERK. A joint resolution (S. J. Res. 128) to authorize the President to lend to the Food and Agriculture Organization of the United Nations funds for the construction and furnishing of a permanent headquarters, and for related purposes.

The VICE PRESIDENT. Is there objection to the present consideration of the joint resolution?

There being no objection, the Senate proceeded to consider the joint resolution which had been reported from the Committee on Foreign Relations, with amendments, on page 2, line 6, after the word "Columbia", to strike out "or in New York City,"; in line 7, after the word "in", to strike out "the" and insert "its"; in the same line, after the word "vicinity", to strike out "of either"; on page 3, line 9, after the word "payments", to insert "in currency of the United States which is legal tender for public debts on the date such payments are made"; and on page 5, line 25, after the word "headquarters", to insert "in the city of Washington, District of Columbia, or its vicinity", so as to make the joint resolution read:

Resolved, etc., That the President is authorized to lend to the Food and Agriculture Organization of the United Nations (hereinafter referred to as the Organization) sums not to exceed in the aggregate $7,000,000. The President shall conclude an agreement with the Organization covering the loan herein authorized, which agreement shall incorporate the pertinent requirements contained in this joint resolution, and such additional requirements as the President may deem necessary to protect the interests of the Government of the United States. Such sums shall be expended only as authorized by the Organization for the construction and furnishing of the permanent headquarters of the Organization in the city of Washington, D. C., or in its vicinity, including the necessary architectural and engineering work, landscaping, and other appropriate improvements to the land and approaches and for other related purposes and expenses incident thereto.

SEC. 2. Such sums may be advanced by the Government of the United States upon the request of the Director General or other duly authorized officer of the Organization and upon the certification of the architect or engineer in charge of construction, countersigned by the Director General or other duly authorized officer, that the amount requested is required to cover payments for the purposes set forth in section 1 of this joint resolution which either (a) have been made at any time by the Organization, or (b) are due and payable, or (c) it is estimated will become due and payable within 60 days from the date of such request. All funds advanced under the authority of this joint resolution shall be receipted for on behalf of the Organization. All sums not used by the Organization for the purposes set forth in section 1 shall be returned to the Government of the United States when no longer required for said purposes. No amounts shall be advanced hereunder after January 1, 1954, or such later date, not later than June 30, 1959, as may be agreed to by the President.

SEC. 3. As a condition to the receipt of this loan or any part thereof, the Organization shall agree to repay without interest to the Government of the United States the principal amounts of all sums advanced hereunder in 30 approximately equal annual payments, in currency of the United States which is legal tender for public debts on the date such payments are made, beginning not later than 1 year after date of occupancy of the permanent headquarters, but in no event later than January 1, 1954, and continuing until the entire amount advanced has been repaid, except that the Organization may at any time make repayments to the Government of the United States in amounts in excess of such equal annual installments.

SEC. 4. The Organization shall agree, before any funds are made available by loan under this joint resolution for the construction of the permanent headquarters, that the land on which the construction is to take place, whether by the Government of the United States or otherwise, and the buildings thereon or to be constructed thereon, shall be made subordinate and subject to the first lien of the Government of the United States for the repayment of said loan. The Organization shall not, without the consent of the President, sell or otherwise dispose of all or any part of such land and buildings while any indebtedness incurred under the loan herein authorized is outstanding and unpaid. The Organization shall agree not to dispose of said lands and buildings at any time without first offering to dispose of the property to the Government of the United States on terms as favorable as those offered to others.

SEC. 5. The President is authorized to convey to the Organization in fee simple without cost part or all of the remaining portion of the former animal-disease station near Bethesda, Md., consisting of approximately 32 acres as a site for the permanent headquarters of the Organization. The President is further authorized to exchange such tract for a suitable tract of land in the city of Washington, D. C., or its vicinity, not owned by the Government, which may be offered by the Maryland National Capital Park and Planning Commission in exchange therefor, on such terms and conditions as the President may determine, and to convey to the Organization such substituted tract. After a suitable site has been made available under this joint resolution for the headquarters site, any part or all of the above-described animal-disease station tract remaining may be conveyed by the President to the Mary-

land National Capital Park and Planning Commission for park, playground, or parkway purposes, but if the tract at any time shall not be used for any of such purposes title thereto shall revert to the United States.

SEC. 6. Notwithstanding the provisions of any other law, the President is further authorized upon request of the Organization to utilize the facilities of the United States Government for the construction and furnishing in whole or in part of the headquarters of the Organization on the tract of land which is selected for such purpose under the terms of this joint resolution. For such work the President may, in such manner as may be agreed upon with the Organization, utilize funds available pursuant to this joint resolution for the loan to the Organization. Before any such funds may be utilized the President shall have concluded the agreement provided for in section 1 hereof. The President may allocate funds made available hereunder to any department, agency, or independent establishment of the Government for direct expenditure for the purposes of this section, and such expenditure may be made under the authority herein contained or under the authority governing similar expenditures of the department, agency, or independent establishment to which the funds are allocated.

SEC. 7. The Organization may use the loan provided by this joint resolution to establish its permanent headquarters in the city of Washington, District of Columbia, or its vicinity, jointly with one or more other specialized agencies of the United Nations, either in the same building or at the same site. The Organization may also offer for this joint purpose any site made available under section 5 of this joint resolution. The land and buildings in any such joint headquarters shall also be made subject to the provisions of section 4 hereof, except that in lieu of the lien required by section 4, the President may accept such other security for the loan which he may deem equally adequate.

SEC. 8. (a) There is hereby authorized to be appropriated to the Department of State, out of any money in the Treasury not otherwise appropriated, the sum of $7,000,000 to accomplish the purposes of this joint resolution. Amounts received in repayment of such loan shall be deposited and covered into the Treasury of the United States as miscellaneous receipts.

(b) Notwithstanding the provisions of any other law, the Reconstruction Finance Corporation is authorized and directed, until such time as an appropriation shall be made pursuant to subsection (a) of this section, to make advances not to exceed in the aggregate $3,500,000 to carry out the provisions of this joint resolution and of the loan agreement referred to in section 1 in such manner, and in such amounts, as the President shall determine, and no interest shall be charged on advances made by the Treasury to the Reconstruction Finance Corporation for this purpose. The Reconstruction Finance Corporation shall be repaid, without interest, for advances made by it hereunder, from funds made available for the purposes of this joint resolution and of the loan agreement set forth in section 1.

SEC. 9. The President may carry out any of his functions under this joint resolution through such officers and agencies of the Government as he may designate.

The amendments were agreed to.

The VICE PRESIDENT. That completes the committee amendments. The joint resolution is open to further amendment. If there be no further amendment to be offered, the question is on the engrossment and third reading of the joint resolution.

The joint resolution was ordered to be engrossed for a third reading, read the third time, and passed.

LEAVE OF ABSENCE

Mr. THYE asked and was granted leave to be absent from the Senate after this evening.

AMENDMENT OF INDEPENDENT OFFICES APPROPRIATION ACT

Mr. McMAHON. Mr. President, I ask unanimous consent that the Senate take up for immediate consideration Senate bill 2668, which is a bill to amend the Independent Offices Appropriations Act, in respect to a provision pertaining to atomic energy. I may add that the bill has the unanimous approval of the Joint Committee on Atomic Energy. The ranking Republican member [Mr. HICKENLOOPER] is, I believe, in the Chamber. The Senator from Colorado [Mr. MILLIKIN] is also present. It was unanimously reported to the Senate.

The VICE PRESIDENT. The bill has just been reported today, and is not on the calendar. Will the Senator send to the desk a copy, so the clerk may state the bill by title and it can be ascertained whether there is objection.

Mr. WHERRY. Mr. President, I am in complete sympathy with what the distinguished Senator from Connecticut is attempting to do, but I am quite satisfied that the majority leader, if we cannot finish the calendar tonight, will probably have it called tomorrow, and I should like not to be in a position, if we grant the request with reference to this bill, to have to grant similar requests in the case of a great many bills that are in the same category. I do not want to have to object. What I should like to have the distinguished Senator do is to ask that it be brought up for consideration tomorrow at the time we have a call of the calendar.

Mr. McMAHON. If I thought I could get it through the House, that would be quite all right with me.

Mr. WHERRY. I think that is possible.

Mr. McMAHON. I should like to call the Senator's attention to his statement that this is in the same category as a great many other bills. Unfortunately it is not. The amendment, I may say to the Senator, is designed to accelerate by from 3 to 4 months the construction program of the Atomic Energy Commission. I merely want to make sure that the adjournment of Congress will not result in the program being delayed for 3 or 4 months. I feel confident the Senator from Nebraska would not want that to happen.

Mr. WHERRY. Mr. President, I inquire who has the floor?

Mr. McMAHON. I have the floor.

Mr. WHERRY. Mr. President, will the Senator yield?

Mr. McMAHON. I yield.

Mr. WHERRY. I may have gone a little too far in saying it is in the category of a good many other bills. I did not have in mind the merits of the bill. I recently objected to another Senator's request to take up another bill, which has not been reported, but on which he says there is unanimous agreement. I asked whether he would not do that tomorrow, and he said he would. That is what I meant when I said the Senator's bill was at least in the category of many other bills. I assure the distinguished Senator from Connecticut we are going to have to go through many transactions tomorrow, on bills similar to this. I shall be glad to remain here until the business is consummated, so far as I am concerned.

The VICE PRESIDENT. Is that agreeable to the Senator from Connecticut?

Mr. McMAHON. I should very much like to have, and I do not mind taking it, the friendly advice of the Senator from Colorado, who understands the situation.

Mr. MILLIKIN. Mr. President, will the Senator yield?

The VICE PRESIDENT. Does the Senator from Connecticut yield to the Senator from Colorado?

Mr. McMAHON. I yield.

Mr. MILLIKIN. I should like to make one suggestion to the distinguished minority leader. In my opinion the passage of the bill by both Houses of Congress is very important to the national security. If the Senator can find it possible to give this bill special attention at this time, in order to assure its passage by the House, I believe it would be a service to the country.

Mr. WHERRY. Mr. President, I do not want in any way to hold up the passage of any bill which should be passed. I merely say, if this bill can be expedited tomorrow, and I am satisfied that it can be, I should much prefer to have it handled in the regular way. If the majority leader will state now on the floor of the Senate that difficulties might arise so that it could not be handled between the two Houses it might make a difference. But I submit I am doing my level best to be fair to every Senator who has made similar requests. While I realize the importance of the measure, I think it could go over until tomorrow. We can remain here until these important measures are passed. I do not want to be arbitrary. I want to be fair about it. If that is not fair I do not know what fairness is.

Mr. LUCAS. Mr. President, will the Senator yield?

The VICE PRESIDENT. Does the Senator from Connecticut yield to the Senator from Illinois?

Mr. McMAHON. I yield.

Mr. LUCAS. In view of what the Senator from Colorado said about the importance of the measure, which coincides with what the distinguished Senator from Connecticut says, I hope that my good friend from Nebraska will let this one bill be acted on tonight, so it can go to the House. I presume that tomorrow we shall be able to get the bill through. I do not know what the condition in the House is. I know the House is going to consider the conference report on the farm bill tomorrow, and get it to the Senate as fast as possible. After the conference report on the farm bill comes in, we shall be pretty close to the conclusion of the business of the session, in view of the way we are now moving along with conference reports. I may say to the distinguished minority leader,

I think the bill of the Senator from Connecticut constitutes an exception to the ordinary bill for which consideration might be sought at this time. I agree with him in everything he says with respect to the ordinary bill which might be called up; but, the bill having been unanimously reported by the committee, which is in possession of information which no other Member of the Senate can have because of the secrecy of the meetings; and in view of what the distinguished Senator from Colorado says, that this bill is vital to the defense and security of the Nation, if something happened to delay it 3 months, we might all be sorry for it.

I feel that under the circumstances this bill ought to be passed.

Mr. HICKENLOOPER. Mr. President, will the Senator yield?

Mr. McMAHON. I yield.

Mr. HICKENLOOPER. Mr. President, I want to say that this bill proposing an amendment to the Independent Offices Appropriation Act is of very great importance. I believe there will be no difficulty in getting it through the House of Representatives. Certainly there should be no possible objection. It is entirely possible that the bill may pass tomorrow as easily as today, but I join with the Senator from Connecticut in saying that I think it is vital that this bill be passed. I am hoping that an exception may be made in this case, without making an exception to the rule, which is, I think, a very good one, of not pulling bills out of the hat and passing them except in the regular order. I assure the Senate that I would not make any suggestion of this kind if I did not think this bill was of unique importance in the atomic program, and I should hate to think that any delay or accident might prevent its passage.

Mr. WHERRY. Mr. President, will the Senator yield?

Mr. McMAHON. I yield.

Mr. WHERRY. My opinion is that if it is so important as the distinguished Senator from Connecticut says it is, there is no reason for the Senate and the House to adjourn tomorrow until it is passed. That is my position. I think a dozen Senators have made similar requests. I ask the distinguished Senator not to press it tonight. We do not want it to appear that there is any objection to it. If he will ask for its consideration the first thing tomorrow morning, no doubt it will pass and go to the House and be handled in the regular order. That is the sensible way to do it.

Mr. McMAHON. Mr. President, I shall not press it on the assurance of the minority leader that he will cooperate tomorrow. I want to assure the Senate that this bill is important enough for the Congress to stay in session until it is passed, because 4 months' difference in time in the construction of facilities and installations might well be the difference between whether the Senator from Nebraska and I may be here.

Mr. WHERRY. I agree with the Senator. I am just as anxious that the bill be passed as he is.

Mr. McMAHON. Mr. President, I withdraw my request.

Mr. LUCAS. Mr. President, I should like to have the calendar called, but I suppose we cannot do so unless we first have a quorum call.

I should like to plead with my friend from Kansas [Mr. SCHOEPPEL]. We have almost a quorum present now. I doubt if we can get more Members in the morning after a quorum call. I think we can pass these measures in a short time, and I should like, after the quorum call tomorrow, to invite attention to the fact that we did pass these bills, and then if any Senator who was not present this evening desires to have a bill reconsidered, certainly that would protect the Senator from Kansas and other Senators. There could not be any breach of faith under those circumstances, because Senators would be fully protected under that sort of an arrangement.

Mr. CORDON. Mr. President, will the Senator yield?

Mr. LUCAS. I yield.

Mr. CORDON. Why not include that arrangement in the unanimous-consent request?

Mr. LUCAS. I shall be very happy to include it in the unanimous-consent request. I hope my friend will agree to that, because we may be very busy all day tomorrow. I hope the Congress can adjourn tomorrow night. That is why I am pushing along now. I stated that we would have a night session, but the debate upon the so-called basing-point bill went by the wayside. Consequently we are here trying to finish as many of the conference reports as we can.

Mr. SCHOEPPEL. Mr. President, will the Senator yield?

Mr. LUCAS. I yield to the Senator from Kansas.

Mr. SCHOEPPEL. In view of the statement made by the distinguished majority leader, I desire to make it crystal clear that I do not want to break faith with a number of Senators who are not present at this time and who were specifically informed that there would be a quorum call before a call of the calendar. I do not know what the objections of those Senators may be. I am merely trying to carry out my responsibility and keep faith with them. If those Senators can be protected, I would not have any objection to withdrawing my objection.

Mr. WHERRY. Mr. President, will the Senator yield for an observation?

Mr. LUCAS. I yield.

Mr. WHERRY. There are several bills which do not have reports accompanying them. By tomorrow morning I suppose all the reports will be here. That is one feature of the situation to which I think I should call attention.

Mr. LUCAS. Mr. President, I suggest the absence of a quorum.

The VICE PRESIDENT. The Secretary will call the roll.

The roll was called, and the following Senators answered to their names:

Aiken	Cordon	Fulbright
Anderson	Donnell	George
Baldwin	Douglas	Graham
Bridges	Downey	Green
Cain	Dworshak	Gurney
Capehart	Ecton	Hayden
Chapman	Ellender	Hickenlooper
Connally	Ferguson	Hill
Holland	Long	O'Mahoney
Ives	Lucas	Pepper
Jenner	McCarthy	Russell
Johnson, Colo.	McFarland	Saltonstall
Johnson, Tex.	McKellar	Schoeppel
Johnston, S. C.	McMahon	Thomas, Okla.
Kem	Magnuson	Thomas, Utah
Kerr	Malone	Thye
Kilgore	Millikin	Watkins
Knowland	Morse	Wherry
Langer	Myers	Williams
Leahy	Neely	Young
Lodge	O'Conor	

The VICE PRESIDENT. A quorum is present.

Mr. McMAHON. Mr. President, with reference to the bill we were discussing before the suggestion was made of the absence of a quorum, that is, the amendment to the independent offices appropriation bill having to do with the atomic energy appropriation, I have talked with the Senator from Nebraska [Mr. WHERRY], the minority leader, who informs me that inasmuch as a quorum has been called and developed he feels relieved from his obligation to object to any bill coming up, no matter what it is. So I now ask unanimous consent that the Senate proceed to the consideration of the bill.

The VICE PRESIDENT. Is there objection?

There being no objection, the Senate proceeded to consider the bill (S. 2668) to amend the Independent Offices Appropriation Act for the fiscal year 1950.

Mr. McMAHON obtained the floor.

Mr. CORDON. Mr. President, will the Senator from Connecticut yield?

Mr. McMAHON. For what purpose?

Mr. CORDON. I desire to ask the Senator a question.

Mr. McMAHON. I shall be glad to yield to the Senator from Oregon.

Mr. CORDON. Has the committee made a written report on the bill on which the Senator seeks to have action?

Mr. McMAHON. Yes, the report is on file with the clerk. It is with the bill.

Mr. CORDON. May I ask the Senator, if it is convenient, to include the written report in the RECORD?

Mr. McMAHON. I ask unanimous consent that the report be printed at this place in my remarks.

The VICE PRESIDENT. Is there objection?

There being no objection, the report (No. 1201) was ordered to be printed in the RECORD, as follows:

The Joint Committee on Atomic Energy, to whom was referred the bill (S. 2668) to amend the Independent Offices Appropriation Act for the fiscal year 1950, having considered the same, report favorably thereon with an amendment and recommend that the bill do pass.

The Independent Offices Appropriation Act, 1950, contains the following language relating to construction projects of the Atomic Energy Commission:

"*Provided further*, That no part of this appropriation or contract authorization shall be used—

"(A) to start any new construction project for which an estimate was not included in the budget for the current fiscal year;

"(B) to start any new construction project the currently estimated cost of which exceeds the estimated cost included therefor in such budget; or

"(C) to continue any community facility construction project whenever the currently

estimated cost thereof exceeds the estimated cost included therefore in such budget;

unless the Director of the Bureau of the Budget specifically approves the start of such construction project or its continuation and a detailed explanation thereof is submitted forthwith by the Director to the Appropriations Committees of the Senate and the House of Representatives and the Joint Committee on Atomic Energy; the limitations contained in this proviso shall not apply to any construction project the total estimated cost of which does not exceed $500,000; and, as used herein, the term 'construction project' includes the purchase, alteration, or improvement of buildings, and the term 'budget' includes the detailed justification supporting the budget estimates: *Provided further*, That whenever the current estimate to complete any construction project (except community facilities) exceeds by 15 percent the estimated cost included therefor in such budget or the estimated cost of a construction project covered by clause (A) of the foregoing proviso which has been approved by the Director, the Commission shall forthwith submit a detailed explanation thereof to the Director of the Bureau of the Budget and the Committees on Appropriations of the Senate and of the House of Representatives and the Joint Committee on Atomic Energy."

At the time this provision was being considered by the Congress, the Atomic Energy Commission expressed concern to this committee that the restrictive effect on construction might well seriously impede the Commission in moving forward with all necessary speed with its construction projects.

In recent hearings with this committee and in a letter dated October 12, 1949, from the Chairman of the Commission, the Commission has expressed its continued deep concern about the restrictive effect of the construction provision and has stated that its experience, to date, in working under the construction provision has reinforced its view that continuing in effect the construction provision for noncommunity buildings is inconsistent with the urgent needs of the atomic energy program for speed.

It is the belief of the Joint Committee on Atomic Energy that the construction provision unduly emphasizes the importance of and desirability of obtaining firm cost estimates on Atomic Energy Commission technical construction projects which are used to make the product for which the Commission is responsible. This committee and the Congress expect the Atomic Energy Commission to drive ahead with its essential construction projects with all possible dispatch. With this principle as our guide, we recognize that speed is primary.

The committee fully recognizes that many atomic energy facilities possess unique characteristics and, in fact, are of a type that have never before been built. Furthermore, the committee is impressed by the fact that it is necessary in many cases, in order to obtain the necessary drive, to proceed immediately with construction in situations where time permits only the preparation of incomplete plans and specifications. In addition, the committee is fully aware that it is necessary during various stages of atomic energy construction projects to adapt the structure to allow the incorporation of equipment and the employment of new ideas not contemplated when the construction project was begun.

The McMahon Act itself states of atomic energy, "It is a field in which unknown factors are involved." The truth of this statement is certainly demonstrated by the necessities of atomic energy construction projects.

It is the firm conviction of this committee that the Commission should drive ahead with all possible speed with its essential construction projects and should not be required to wait for firm engineering plans and specifications to be drawn up before proceeding with vitally needed construction. We must face up to the fact that in the field of atomic energy, in order to assure the atomic energy supremacy of this Nation, cost must be subordinated to getting the job done speedily.

For these reasons the joint committee believes that the present construction provision should not be applicable to those construction projects of the Commission which are necessary in the interest of the common defense and security. Accordingly, the joint committee proposes the following amendment to the existing construction provisions which will have the effect of eliminating the provision insofar as it relates to those construction projects of the Commission which it certifies to the Director of the Bureau of the Budget to be necessary in the interest of the common defense and security, and further providing that the Director of the Bureau of the Budget concurs therein.

Mr. WHERRY. Mr. President, I want the RECORD to show that inasmuch as a quorum call has been had, and that it is agreeable to call the calendar, I think now is the proper time for the distinguished Senator to ask for the consideration of the bill, having met all the requirements, so far as having Senators present is concerned.

Mr. McMAHON. Mr. President, the amendment suggested to the independent offices bill is to that part of it which introduces a legislative rider and restriction upon the spending of money by the Atomic Energy Commission for new construction and new facilities.

The amendment which was adopted when the independent offices bill was under consideration was well-intentioned by the Senate and by the Committee on Appropriations, in fact, I might add that I stated, when the matter was under consideration, that so far as I could see the Commission could live with the provision which is now in the law.

Experience and further testimony before the joint committee have demonstrated beyond a shadow of doubt that this restrictive provision which requires the Commission to submit exact estimates to the Bureau of the Budget on facilities which have never before been built may well result in a delay of 3 to 4 to 6 months in the construction of those facilities.

The reason for that is quite obvious when one stops to think about it. If the Commission can go ahead when they have part of a project designed and put it into construction, and then design as they go along, they can make better speed than if they have to have exact estimates down to the last copper nail. Of course, under the provision in the appropriation act the contractors would not venture to estimate until they had figure down to the last T-square.

The subject was considered by the committee very carefully, and after considerable deliberation the committee unanimously adopted an amendment providing that the restrictive provisions in the appropriation act should not apply to technical facilities to be used in the production of the end product of the Commission. In other words, if schools or other facilities were involved, then the exception would not apply. It would apply only to the technical production facilities of the Commission.

What do we require the Commission to do? Under the amendment we require the Commission to certify to the Director of the Bureau of the Budget that immediate construction or immediate continuation of construction is necessary to the national defense and security. Then we further provide that the Director of the Bureau of the Budget must agree that such certification by the Commission is definite.

Mr. President, I hope that the Senate will agree to the committee amendment and pass the bill.

Mr. MILLIKIN. Mr. President, perhaps it is no secret that I am not satisfied with the Commission's conduct of its fiscal affairs. It is somewhat painful to me to be confronted with an amendment which tends to loosen what I conceive to be proper normal controls over the spending of public funds. In order to satisfy myself and other members of the joint committee, in order to satisfy themselves, conducted extensive questioning into the need for a loosening of controls in this field.

In a word, without going into details, the Commission is confronted with the task of carrying on vitally important tasks in somewhat unknown and experimental areas and with speed which does not permit of the type of detailed advance planning associated with normal construction work.

Frankly when the original restrictions were adopted I thought they were a good thing. I too thought that the Commission could live under those restrictions without slowing necessary progress. As a result of the hearings held I reached the conclusion that this was questionable, that much of the planning, designing, detailed drawings, specifications, and so forth, would have to be developed as they go along. There is no alternative to it, unless we wish to lose very valuable time in this subject of superimportance. I hope the amendment will have the full support of the Senate.

The VICE PRESIDENT. The question is on agreeing to the amendment to Senate bill 2668, which will be stated.

The LEGISLATIVE CLERK. On page 1, line 9, after the word "facilities" it is proposed to strike out "whose immediate construction or whose immediate continuation of construction the Commission certifies to the Director of the Bureau of the Budget to be necessary to the national defense and security." and insert "(1) if the Commission certifies to the Director of the Bureau of the Budget that immediate construction or immediate continuation of construction is necessary to the national defense and security, and (2) if the Director agrees that such certification is justified."

The VICE PRESIDENT. Without objection, the amendment is agreed to.

The question is on the engrossment and third reading of the bill.

The bill (S. 2668) was ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted, etc., That the sentence in title I, Public Law 266, Eighty-first Congress, pertaining to appropriations for the use of the Atomic Energy Commission is hereby amended by striking out the period at the end thereof, inserting a colon, and adding the following new clause: "*Provided further*, That the two foregoing provisos shall have no application with respect to technical

and production facilities (1) if the Commission certifies to the Director of the Bureau of the Budget that immediate construction or immediate continuation of construction is necessary to the national defense and security, and (2) if the Director agrees that such certification is justified."

EFFECT OF POLICIES OF ECA ON UNEMPLOYMENT

Mr. GREEN. Mr. President, I ask unanimous consent to have printed in the CONGRESSIONAL RECORD, after the Congress adjourns and before the final issue of the RECORD for this session is published, correspondence I am having with officials of the Economic Cooperative Administration and others as to the effect of its policies on unemployment in this country, together with my comments thereon.

This correspondence relates in part to conferences Representative JOHN MCCORMACK and I have had with the President and with the ECA Administrator on this subject.

The VICE PRESIDENT. Is there objection? The Chair hears none, and it is so ordered.

REHABILITATION OF NAVAJO AND HOPI INDIANS

Mr. McFARLAND. Mr. President, from the Committee on Interior and Insular Affairs, I report favorably, without amendment, the bill (S. 2734) to promote the rehabilitation of the Navajo and Hopi Tribes of Indians and a better utilization of the resources of the Navajo and Hopi Indian Reservations, and for other purposes, and I submit a report, No. 1202, thereon.

Mr. O'MAHONEY. Mr. President, there is a veto message from the President of the United States on the desk, which was transmitted to the Senate in connection with a bill to promote the rehabilitation of the Navajo and Hopi Tribes of Indians, which was unanimously passed by the Senate. The veto message states that the President reluctantly withheld his consent to the bill, and that the veto is based upon the contents of section 9 of the bill as it passed the two Houses. Section 9 was added in the House of Representatives, not in the Senate. It provides that the Indians of these two tribes should become subject to the laws of the States. It was upon the ground that that provision should not be approved that the President vetoed the bill. In compliance with the Constitution, the veto message came to the Senate, because this was the house in which the measure originated.

The Committee on Interior and Insular Affairs, which unanimously reported the bill, instead of asking for a vote upon the veto message, as would be the proper procedure, decided that the better course would be to eliminate the objectionable language, which is the amendment that was added in the House of Representatives.

So in accordance with that understanding the bill was reintroduced, without the objectionable section. A favorable report has been filed. Therefore, Mr. President, instead of having the veto message laid before the Senate for a vote, I ask unanimous consent that the new bill, S. 2734, as unanimously and favorably reported by the Committee on Interior and Insular Affairs may be considered and passed. I am doing this because if it passes tonight it will be passed in the same form in the House tomorrow.

There is, I think, practically unanimous agreement that the rehabilitation of the Navajo and Hopi Tribes ought to be carried forth without delay.

So, Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Senate bill 2734.

The VICE PRESIDENT. Is there objection?

Mr. LUCAS. Mr. President, a parliamentary inquiry.

The VICE PRESIDENT. The Senator will state it.

Mr. LUCAS. If unanimous consent is granted, what disposition will result with respect to the veto message, if any?

The VICE PRESIDENT. The veto message will then be referred to the committee.

Mr. O'MAHONEY. Yes.

Mr. LUCAS. Mr. President, I have no objection, unless it will take some time. A quorum call was just had for the sole purpose of calling the calendar. I do not want to be placed in the position of having to suggest the absence of a quorum before we take up the call of the calendar.

Mr. WHERRY. Reserving the right to object, Mr. President, does the language of the bill which is now reintroduced with the status of a new bill, contain the identical language, with the exception of the deletion of the one section, as when we passed the bill in the Senate on a prior occasion?

Mr. O'MAHONEY. With the exception that certain appropriations authorized there, which were reduced in the House, have been accepted by our committee.

Mr. WHERRY. That is the point I am making. In other words, the Senate at one time passed the bill containing the section which was the basis for the veto?

Mr. O'MAHONEY. No. It never passed it with that section in the bill, except upon agreeing to the conference report.

Mr. WHERRY. I see. So that we have already acted upon the bill which has been presented?

Mr. O'MAHONEY. That is correct.

Mr. WHERRY. Is this the bill that requires a considerable appropriation? I think I remember the bill. I am not quarreling with that.

Mr. O'MAHONEY. May I ask the Senator from Arizona what the amount of the appropriation was?

Mr. McFARLAND. It totaled $88,570,000.

I should like to correct a statement just made. The Senate version was slightly changed in conference. This bill contains the language of the conference report with the objectionable features of the bill eliminated.

The VICE PRESIDENT. Is there objection to the present consideration of the bill?

Mr. WATKINS. Mr. President, I served on the conference committee, and a year ago I was chairman of the Indian subcommittee of the Senate committee. We have gone over this matter thoroughly. We have had extensive hearings on it. I am convinced that the measure is absolutely necessary to keep faith with these Indians.

Mr. O'MAHONEY. I thank the Senator from Utah.

The VICE PRESIDENT. Is there objection to the present consideration of the bill?

There being no objection the bill (S. 2734) to promote the rehabilitation of the Navajo and Hopi Tribes of Indians and a better utilization of the resources of the Navajo and Hopi Indian Reservations, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted, etc., That in order to further the purposes of existing treaties with the Navajo Indians, to provide facilities, employment, and services essential in combating hunger, disease, poverty, and demoralization among the members of the Navajo and Hopi Tribes, to make available the resources of their reservations for use in promoting a self-supporting economy and self-reliant communities, and to lay a stable foundation on which these Indians can engage in diversified economic activities and ultimately attain standards of living comparable with those enjoyed by other citizens, the Secretary of the Interior is hereby authorized and directed to undertake, within the limits of the funds from time to time appropriated pursuant to this act, a program of basic improvements for the conservation and development of the resources of the Navajo and Hopi Indians, the more productive employment of their manpower, and the supplying of means to be used in their rehabilitation, whether on or off the Navajo and Hopi Indian Reservations. Such program shall include the following projects for which capital expenditures in the amount shown after each project listed in the following subsections and totaling $88,570,000 are hereby authorized to be appropriated:

(1) Soil and water conservation and range improvement work, $10,000,000.

(2) Completion and extension of existing irrigation projects, and completion of the investigation to determine the feasibility of the proposed San Juan-Shiprock irrigation project, $9,000,000.

(3) Surveys and studies of timber, coal, mineral, and other physical and human resources, $500,000.

(4) Development of industrial and business enterprises, $1,000,000.

(5) Development of opportunities for off-reservation employment and resettlement and assistance in adjustments related thereto, $3,500,000.

(6) Relocation and resettlement of Navajo and Hopi Indians (Colorado River Indian Reservation), $5,750,000.

(7) Roads and trails, $20,000,000.

(8) Telephone and radio communication systems, $250,000.

(9) Agency, institutional, and domestic water supply, $2,500,000.

(10) Establishment of a revolving loan fund, $5,000,000.

(11) Hospital buildings and equipment, and other health conservation measures, $4,750,000.

(12) School buildings and equipment, and other educational measures, $25,000,000.

(13) Housing and necessary facilities and equipment, $320,000.

(14) Common service facilities, $500,000.

Funds so appropriated shall be available for administration, investigations, plans, construction, and all other objects necessary for or appropriate to the carrying out of the provisions of this act. Such further sums as may be necessary for or appropriate to the

annual operation and maintenance of the projects herein enumerated are hereby also authorized to be appropriated. Funds appropriated under these authorizations shall be in addition to funds made available for use on the Navajo and Hopi Reservations, or with respect to Indians of the Navajo Tribes, out of appropriations heretofore or hereafter granted for the benefit, care, or assistance of Indians in general, or made pursuant to other authorizations now in effect.

SEC. 2. The foregoing program shall be administered in accordance with the provisions of this act and existing laws relating to Indian affairs, shall include such facilities and services as are requisite for or incidental to the effectuation of the projects herein enumerated, shall apply sustained-yield principles to the administration of all renewable resources, and shall be prosecuted in a manner which will provide for completion of the program, so far as practicable, within 10 years from the date of the enactment of this act. An account of the progress being had in the rehabilitation of the Navajo and Hopi Indians, and of the use made of the funds appropriated to that end under this act, shall be included in each annual report of the work of the Department of the Interior submitted to the Congress during the period covered by the foregoing program.

SEC. 3. Navajo and Hopi Indians shall be given, whenever practicable, preference in employment on all projects undertaken pursuant to this act, and, in furtherance of this policy, may be given employment on such projects without regard to the provisions of the civil-service and classification laws. To the fullest extent possible, Indian workers on such projects shall receive on-the-job training in order to enable them to become qualified for more skilled employment.

SEC. 4. The Secretary of the Interior is authorized, under such regulations as he may prescribe, to make loans from the loan fund authorized by section 1 hereof to the Navajo Tribe, or any member or association of members thereof, or to the Hopi Tribe, or any member or association of members thereof, for such productive purposes as, in his judgment, will tend to promote the better utilization of the manpower and resources of the Navajo or Hopi Indians. Sums collected in repayment of such loans and sums collected as interest or other charges thereon shall be credited to the loan fund, and shall be available for the purpose for which the fund was established.

SEC. 5. Any restricted Indian lands owned by the Navajo Tribe, members thereof, or associations of such members, or by the Hopi Tribe, members thereof, or associations of such members, may be leased by the Indian owners, with the approval of the Secretary of the Interior, for public, religious, educational, recreational, or business purposes, including the development or utilization of natural resources in connection with operations under such leases. All leases so granted shall be for a term of not to exceed 25 years, but may include provisions authorizing their renewal for an additional term of not to exceed 25 years, and shall be made under such regulations as may be prescribed by the Secretary. Restricted allotments of deceased Indians may be leased under this section, for the benefit of their heirs or devisees, in the circumstances and by the persons prescribed in the act of July 8, 1940 (54 Stat. 745; 25 U. S. C., 1946 ed., sec. 380). Nothing contained in this section shall be construed to repeal or affect any authority to lease restricted Indian lands conferred by or pursuant to any other provision of law.

SEC. 6. In order to facilitate the fullest possible participation by the Navajo Tribe in the program authorized by this act, the members of the tribe shall have the right to adopt a tribal constitution in the manner herein prescribed. Such constitution may provide for the exercise by the Navajo Tribe of any powers vested in the tribe or any organ thereof by existing law, together with such additional powers as the members of the tribe may, with the approval of the Secretary of the Interior, deem proper to include therein. Such constitution shall be formulated by the Navajo Tribal Council at any regular meeting, distributed in printed form to the Navajo people for consideration, and adopted by secret ballot of the adult members of the Navajo Tribe in an election held under such regulations as the Secretary may prescribe, at which a majority of the qualified votes cast favor such adoption. The constitution shall authorize the fullest possible participation of the Navajos in the administration of their affairs as approved by the Secretary of the Interior and shall become effective when approved by the Secretary. The constitution may be amended from time to time in the same manner as herein provided for its adoption, and the Secretary of the Interior shall approve any amendment which in the opinion of the Secretary of the Interior advances the development of the Navajo people toward the fullest realization and exercise of the rights, privileges, duties, and responsibilities of American citizenship.

SEC. 7. Notwithstanding any other provision of existing law, the tribal funds now on deposit or hereafter placed to the credit of the Navajo Tribe of Indians in the United States Treasury shall be available for such purposes as may be designated by the Navajo Tribal Council and approved by the Secretary of the Interior.

SEC. 8. The Tribal Councils of the Navajo and Hopi Tribes and the Indian communities affected shall be kept informed and afforded opportunity to consider from their inception plans pertaining to the program authorized by this act. In the administration of the program, the Secretary of the Interior shall consider the recommendations of the tribal councils and shall follow such recommendations whenever he deems them feasible and consistent with the objectives of this act.

SEC. 9. Beginning with the quarter commencing July 1, 1950, the Secretary of the Treasury shall pay quarterly to each State (from sums made available for making payments to the States under sections 3 (a), 403 (a), and 1003 (a) of the Social Security Act) an amount, in addition to the amounts prescribed to be paid to such State under such sections, equal to 80 percent of (1) the total amounts expended during the preceding quarter by the State, under the State plans approved under the Social Security Act for old-age assistance, aid to dependent children, and aid to the needy blind, to Navajo and Hopi Indians residing within the boundaries of the State on reservations or an allotted or trust lands, with respect to whom payments are made to the State by the United States under sections 3 (a), 403 (a), and 1003 (a), respectively, of the Social Security Act, not counting so much of such expenditure to any individual for any month as exceeds the limitations prescribed in such sections, reduced by (2) the total amounts paid to such State by the United States for such quarter under sections 3 (a), 403 (a), and 1003 (a) of the Social Security Act with respect to such Indians.

SEC. 10. (a) There is hereby established a joint congressional committee to be known as the Joint Committee on Navajo-Hopi Indian Administration (hereinafter referred to as the "committee"), to be composed of three members of the Committee on Interior and Insular Affairs of the Senate to be appointed by the chairman thereof, not more than two of whom shall be from the same political party, and three members of the Committee on Public Lands of the House of Representatives to be appointed by the chairman thereof, not more than two of whom shall be from the same political party. A vacancy in the membership of the committee shall be filled in the same manner as the original selection. The committee shall elect a chairman from among its members.

(b) It shall be the function of the committee to make a continuous study of the programs for the administration and rehabilitation of the Navajo and Hopi Indians, and to review the progress achieved in the execution of such programs. Upon request, the committee shall aid the several standing committees of the Congress having legislative jurisdiction over any part of such programs, and shall make a report to the Senate and the House of Representatives, from time to time, concerning the results of its studies, together with such recommendations as it may deem desirable. The Commissioner of Indian Affairs at the request of the committee, shall consult with the committee from time to time with respect to his activities under this act.

(c) The committee, or any duly authorized subcommittee thereof, is authorized to hold such hearings, to sit and act at such times and places, to require by subpena or otherwise the attendance of such witnesses and the production of such books, papers, and documents, to administer such oaths, to take such testimony, to procure such printing and binding, and to make such expenditures as it deems advisoble. The cost of stenographic services to report such hearings shall not be in excess of 25 cents per hundred words. The provisions of sections 102 to 104, inclusive, of the Revised Statutes shall apply in case of any failure of any witness to comply with any subpena or to testify when summoned under authority of this subsection.

(d) The committee is authorized to appoint and, without regard to the Classification Act of 1923, as amended, fix the compensation of such experts, consultants, technicians, and organizations thereof, and clerical and stenographic assistants as it deems necessary and advisable.

(e) There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this section, to be disbursed by the Secretary of the Senate on vouchers signed by the chairman.

ERNEST J. JENKINS—VETO MESSAGE (S. DOC. NO. 120)

The VICE PRESIDENT. The Senate has received a message from the President of the United States vetoing Senate bill 377, a bill for the relief of Ernest J. Jenkins. In view of the situation in the Senate, the Chair will ask that the message be printed in the RECORD without being read, and referred to the Committee on the Judiciary.

There being no objection, the veto message was referred to the Committee on the Judiciary and ordered to be printed in the RECORD, as follows:

To the Senate:

I am returning without my approval S. 377, a bill for the relief of Ernest J. Jenkins.

The bill would direct the payment of $10,000, out of general funds in the Treasury, to Ernest J. Jenkins, of New Brunswick, Ga., in full satisfaction of his claim against the United States for compensation for loss of earnings and for expenses incurred as a result of personal injuries sustained in an airplane crash on October 8, 1942, while on active duty with the Civil Air Patrol * * *.

Mr. Jenkins was a member of that brave and patriotic group of civilian volunteer pilots who, organized as the Civil Air Patrol, rendered invaluable services in the defense of this country in World

War II. These pilots furnished their own aircraft and, apart from the payment of expenses for the use of their planes and a small subsistence allowance, received no compensation for their services. On the date stated in the bill, while Mr. Jenkins was taking off on a coastal patrol mission, his plane crashed from an altitude of 300 feet and he sustained severe injuries.

To meet, among other things, the risk of injury or death incurred in civilian defense—including duty in the Civil Air Patrol which, at that time, was a unit under the Office of Civilian Defense and later was transferred to the War Department—the President had established a Civilian War Benefits program, financed originally from emergency funds (now out of annual appropriations) and administered by the Federal Security Agency. Mr. Jenkins filed a claim under that program, has received in cash benefits, as of September 30, 1949, at the rate of $85 per month, an aggregate amount of $5,143.92, and has obtained hospitalization and medical benefits to date in the sum of $9,446.09, so that total expenditures in his behalf so far have reached at least $14,590.01. He is still on the benefit rolls and will continue to receive benefits subject to the availability of appropriations and continued loss of earning capacity and subject to continued evaluation of the extent of disability. If this bill should become law, however, any right to further benefits under that program would be extinguished.

I appreciate the motives of equity and of patriotism which prompted the Congress to pass this bill, and agree that the benefits paid under that program are inadequate. It is by no means clear, however, that to cut Mr. Jenkins off from all further benefits, medical and otherwise, by means of this lump-sum payment, would do justice to him, while on the other hand it is clear that to single him out for special treatment in this fashion would discriminate against and deny equal justice to others who may have suffered equally or worse.

The records of the Civil Air Patrol indicate that over 50 of its members lost their lives and somewhat less than 100 were injured on its missions in World War II. Benefits are still being paid under the civilian war benefits program to the dependents of 33 members who were killed and to 4 members who were injured. Recognizing that private legislation in this one case only would be discriminatory, the committee reports suggest that "if there are any other cases of this type it is to be hoped that they will be brought to the attention of Congress as quickly as possible so that any charge of discrimination that may be leveled at Congress can be quickly and adequately disposed of." I would doubt, however, that those so discriminated against would consider this a sufficient answer. If, in a substantial number of cases, existing law does not afford them justice, they ought not to be required to come to Congress as petitioners to seek individual relief by the hazardous process of private legislation but ought to be able to look to legislation, general in terms, under which they would be entitled as of right to just compensation upon terms equally applicable to all those similarly circumstanced. In the second place, a system of periodical benefits, as in the case of persons injured or killed in military service or in civilian Government employment, has been found to be more beneficial in the long run to the persons involved, and socially more desirable, than the method of lump-sum payment here employed.

We are not concerned merely with the cases now on the rolls. Only July 1, 1946, by act of Congress (60 Stat. 346, 36 U. S. C., sec. 201 et seq.), Civil Air Patrol was incorporated as a permanent organization, and on May 26, 1948, by Public Law 557, Eightieth Congress, it was established as a volunteer civilian auxiliary of the United States Air Force in aid of the noncombatant mission of the Air Force. In the performance of that mission there is necessarily ever present the risk of injury or death. In order to meet that risk by an orderly system of compensation, I would favor extending the benefits of the Federal Employees' Act to members of the patrol. That act provides a system of disability and death benefits for Federal civilian employees. On October 6, 2 days after the passage of the private relief bill now before me, the Congress passed H. R. 3191, a bill extending, improving, and very substantially liberalizing the Compensation Act, thus making the extension of the benefits of that act to members of the patrol more than ever appropriate. Such an extension could, and I believe should, also cover prospectively the cases of members of the patrol injured or killed prior to its enactment.

In view of the above considerations, I feel constrained to return S. 377 without my approval.

HARRY S. TRUMAN.

THE WHITE HOUSE, *October 18, 1949.*

The VICE PRESIDENT. The veto message will be referred to the Committee on Interior and Insular Affairs.

THE CALENDAR

Mr. LUCAS. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of the bills on the legislative calendar, beginning with Calendar No. 1191, Senate bill 1019.

The VICE PRESIDENT. Without objection, it is so ordered.

The clerk will state the first bill in order.

CARL J. FREUND AND PAULINE H. FREUND

The bill (S. 1019) conferring jurisdiction upon the United States District Court for the Western District of Washington to hear, determine, and render judgment upon any claim arising out of personal injuries sustained by Carl J. Freund and Pauline H. Freund, his wife, of Seattle, Wash., was announced as first in order.

The VICE PRESIDENT. Is there objection to the present consideration of the bill?

Mr. CORDON. Mr. President, reserving the right to object, I should like to inquire of the sponsor of the bill as to the necessity for conferring jurisdiction in a case of a tort action. My understanding is that the Congressional Reorganization Act carries the provision for the trial of such tort actions as a matter of right.

Mr. KILGORE. Mr. President, as the sponsor of the measure I will undertake to answer the question. In connection with such bills we have always been striving, wherever possible, to confer jurisdiction on the Court of Claims. When the claimants are too far away, we wish to confer jurisdiction on a Federal court to determine the facts and report back to the Senate in order that we may intelligently act upon cases respecting which we are not satisfied or fully assured in our own minds that a claim is fully justified. The purpose of the bill is to allow the district court to determine whether there is a claim, and if so, to recommend how much should be paid.

Mr. CORDON. Will the Senator answer further as to the basis of objection of the War Department to the legislation?

Mr. KILGORE. The claim arises out of a collision. It occurred before the Federal Court of Claims Act became effective, and could not be settled under the Federal Court of Claims Act. Therefore we would confer jurisdiction on the court to determine whether or not the claimants should be paid.

Mr. CORDON. I note that the provision is "to confer jurisdiction to hear, determine, and render judgment."

Mr. KILGORE. Yes. We give them a chance, as we have done frequently in the past, to proceed and render a judgment, just like the Court of Claims would render it.

Mr. CORDON. One other question. Does the bill itself establish any liability, or establish facts by legislative fiat?

Mr. KILGORE. No. The bill specifically states that it does not admit anything. In other words, the bill does not acknowledge liability or anything else. We leave that up to the court to determine. It is for the court to determine whether or not there is a claim, and if so, whether or not it is a just claim under the Federal Torts Act.

The VICE PRESIDENT. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on the Judiciary with an amendment, to strike out all after the enacting clause and insert:

That the jurisdiction conferred upon the United States District Court for the Western District of Washington by subsection (b) of section 1346, title 28, United States Code, is hereby extended to a civil action, which may be commenced not later than 1 year after the enactment of this act, asserting any claim or claims of Carl J. Freund and Pauline H. Freund, his wife, of Seattle, Wash., against the United States for money damages arising out of personal injuries sustained by them in a collision between their automobile and a United States Army truck at the intersection of Olga Street and Thirty-eighth Avenue SW., Seattle, Wash., on April 23, 1944. Except as otherwise provided in this act, all provisions of law applicable in and to such subsection, and applicable to judgments therein and appeals therefrom, are hereby made equally applicable in respect of the civil action authorized by this act.

Mr. DONNELL. Mr. President, I know that it was the desire of the Judiciary Committee to include the safeguarding clause, by which we do not admit liability. But I cannot find it in the bill.

Mr. KILGORE. Mr. President, I am mistaken. In this bill we placed the case specifically under the Federal Torts Act. Therefore there is no admission of liability.

Mr. DONNELL. Mr. President, would the Senator have any objection, after the committee amendment is disposed of, to an amendment to the effect that nothing contained in the bill does or shall constitute any admission of liability by the United States Government?

Mr. KILGORE. Not in the slightest degree.

Mr. DONNELL. Would that meet the point of the Senator from Oregon?

Mr. CORDON. Yes.

The VICE PRESIDENT. The committee amendment is in the form of a substitute, striking out all after the enacting clause. The amendment of the Senator from Missouri would have to be offered to the committee amendment.

Mr. DONNELL. Is this the appropriate place to offer the amendment?

The VICE PRESIDENT. It is.

Mr. DONNELL. I respectfully offer the amendment, to appear immediately at the conclusion of the committee amendment as set forth. My amendment would read as follows:

Provided, however, That nothing in this act does or shall constitute an admission of liability on the part of the Government of the United States of America.

The VICE PRESIDENT. The question is on agreeing to the amendment offered by the Senator from Missouri to the committee amendment.

The amendment to the amendment was agreed to.

The amendment as amended was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

CLAIMS OF EMPLOYEES OF THE ALASKA RAILROAD FOR OVERTIME

The bill (H. R. 219) to confer jurisdiction upon the Court of Claims to determine the amounts due to and render judgment upon the claims of the employees of the Alaska Railroad for overtime work performed, was considered, ordered to a third reading, read the third time, and passed.

REQUIREMENT OF UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF MICHIGAN (NORTHERN DIVISION) TO SIT FOR PART OF ITS TERM AT FLINT, MICH.

The bill (S. 1747) to require the United States District Court for the Eastern District of Michigan (northern division) to sit during part of its term at Flint, Mich., was considered, order to be engrossed for a third reading read the third time, and passed, as follows:

Be it enacted, etc., That the second sentence of section 102 (a) (2) of title 28 of the United States Code is hereby amended to read as follows: "Court for the northern division shall be held at Bay City, Port Huron, and Flint."

EDNA A. BAUSER

The bill (S. 1916) for the relief of Edna A. Bauser, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted, etc., That the Secretary of the Treasury is authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to Edna A. Bauser, postmaster at Bunker Hill, Ill., the sum of $366.71, in full satisfaction of her claim against the United States for reimbursement for the expenses incurred by her in providing temporary quarters for the post office following a tornado which destroyed the former quarters: *Provided,* That no part of the amount appropriated in this act in excess of 10 percent thereof shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with this claim, and the same shall be unlawful, any contract to the contrary notwithstanding. Any person violating the provisions of this act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding $1,000.

MITSUE SHIGENO

The Senate proceeded to consider the bill (S. 2114) for the relief of Mitsue Shigeno, which was read, as follows:

Be it enacted, etc., That the provisions of the immigration laws relating to the exclusion of aliens inadmissible because of race shall not hereafter apply to Mitsue Shigeno, Tokyo, Japan, the Japanese fiancée of Carrol Louis Klotzbach, a citizen of the United States and an honorably discharged veteran of World War II, and that Mitsue Shigeno may be eligible for a visa as a nonimmigrant temporary visitor for a period of 3 months: *Provided,* That the administrative authorities find that the said Mitsue Shigeno is coming to the United States with a bona fide intention of being married to said Carrol Louis Klotzbach, and that she is found otherwise admissible under the immigration laws. In the event the marriage between the above-named parties does not occur within 3 months after the entry of said Mitsue Shigeno, she shall be required to depart from the United States and upon failure to do so shall be deported in accordance with the provisions of sections 19 and 20 of the Immigration Act of February 5, 1917 (U. S. C., title 8, secs. 155 and 156). In the event the marriage between the above-named parties shall occur within 3 months after the entry of said Mitsue Shigeno, the Attorney General is authorized and directed to record the lawful admission for permanent residence of said Mitsue Shigeno as of the date of her entry into the United States, upon the payment by her of the required fees and head taxes.

Mr. CORDON. Mr. President, may I inquire what is the nature of the relief? I do not have the bill before me. We are not equipped with full information on the bill. The calendar does not indicate whether it is money relief or other relief.

Mr. HOLLAND. Mr. President, is this inquiry with reference to Senate bill 2114?

Mr. CORDON. Yes.

Mr. HOLLAND. This is a bill to permit the admission to the United States of a Japanese girl to marry a member of the naval personnel, formerly a Marine, who is engaged to her. If she is not married within 3 months, she will be deported.

She has been investigated, and she and her people are found to be of good character.

Mr. CORDON. I have no objection.

The VICE PRESIDENT. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

SYSTEM FOR THE TREATMENT AND REHABILITATION OF YOUTHFUL OFFENDERS—BILL PASSED OVER

The bill (S. 2609) to provide a system for the treatment and rehabilitation of youth offenders, to improve the administration of criminal justice, and for other purposes, was announced as next in order.

Mr. SCHOEPPEL. Mr. President, may we have an explanation of the bill?

Mr. KILGORE. Mr. President, I am very glad to explain the bill.

The bill has a history of 5 or 6 years, during which time it has been worked on by the American Bar Association special committee, by the conference of circuit judges of the United States, by the American Law Institute, and various other organizations, including the Senate Judiciary Committee. It has been circularized to all the judges of the Federal courts, and finally, after 4 years' work, the bill comes before us for consideration.

The bill does not take away from the court any of its powers, but does give to the judges, in cases involving Federal offenses, the right to refer an offender under the age of 24 years to the Department of Justice for a period of 4 years, during which time the Parole Board of the Department of Justice would place the offender in a Federal institution for careful examination and study to determine whether or not he could be reformed, and if possible to reform him. He could not be held for longer than 4 years unless the judge should sentence him to a longer term than 4 years, in which event the Parole Board could hold him for the full length of the judge's sentence.

It is estimated that this system would cost the Government $85,000 the first year. After that time the cost will run to about $185,000 by the end of 5 years.

The bill involves only three additional members of the Parole Board, a little stenographic help, and probably a few physicians to make examinations in Federal institutions. It does not entail any additional construction. Eventually it may involve forestry camps, such as exist in California.

This system has been in use in England since 1894. The bill is patterned on the English system. It has been in use in California for a number of years, as well as in Minnesota, Wisconsin, New Jersey, and Massachusetts, and has been found highly successful in those States.

As I say, we worked out all the wrinkles over a period of about 4 years. The bill is endorsed by the National Grange, and by all the other agricultural organizations, by the American Legion, and other veterans' organizations, and, as I said before, is approved by the American Bar Association, which had a committee studying the question for 2 years.

The reason for trying to get the bill through as soon as possible is the situation we now have with relation to veterans in that age group who are getting

into trouble. The courts would like to have the system, since it does not interfere with their handling of the criminal, but gives them an additional facility to aid in trying to straighten out the offender.

Mr. JOHNSTON of South Carolina. Mr. President, I notice that this is a Senate bill. Unless we can get very fast action in the House, it will not be passed this year. It may be passed next year. I think there is too much in the bill for us to pass it on the call of the calendar. I think we should look into the question a little more than we have an opportunity to do this evening. For that reason, I am compelled to object.

The VICE PRESIDENT. Objection is heard. The bill will be passed over.

EDMEA PACHO

The bill (H. R. 1028) to legalize the admission into the United States of Edmea Pacho was considered, ordered to a third reading, read the third time, and passed.

QUARTERS FOR THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF GEORGIA, AT BRUNSWICK, GA.

The bill (H. R. 3793), to provide for the furnishing of quarters at Brunswick, Ga., for the United States District Court for the Southern District of Georgia, was considered, ordered to a third reading, read the third time, and passed.

KONSTANTINOS YANNOPOULOS

The bill (H. R. 4042) for the relief of Konstantinos Yannopoulos, was considered, ordered to a third reading, read the third time, and passed.

QUARTERS FOR THE UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF GEORGIA, AT THOMASVILLE, GA.

The bill (H. R. 5191) to provide for the furnishing of quarters at Thomasville, Ga., for the United States District Court for the Middle District of Georgia was considered, ordered to a third reading, read the third time, and passed.

ITZCHAK SHAFER

The bill (H. R. 5354) for the relief of Itzchak Shafer was considered, ordered to a third reading, read the third time, and passed.

HERMINIA RICART

The bill (H. R. 6007) for the relief of Herminia Ricart was considered, ordered to a third reading, read the third time, and passed.

MODIFICATION OR CANCELLATION OF CERTAIN ROYALTY-FREE LICENSES GRANTED TO THE GOVERNMENT BY PRIVATE HOLDERS OF PATENTS

The Senate proceeded to consider the bill (S. 2128) to provide for the modification or cancellation of certain royalty-free licenses granted to the Government by private holders of patents and rights thereunder which has been reported from the Committee on the Judiciary with an amendment, on page 2, line 1, after the word "the", to strike out "amendment, modification, or", so as to make the bill read:

Be it enacted, etc., That, notwithstanding any other provision of law, the head of any department or other agency in the executive branch of the Government which during World War II entered into any contract or agreement with the holder of any privately owned patent or any right thereunder whereby such holder granted to the United States, without payment of royalty, any license under such patent or right, is authorized, upon application of the grantor of such license, to enter into such supplemental contract or agreement for the cancellation of the contract or agreement by which such license was granted as the head of such department or agency shall deem to be warranted by equities existing by reason of changes in circumstances occurring since the granting of such license.

Mr. SCHOEPPEL. Mr. President, may we have a brief explanation of this measure?

Mr. KILGORE. Mr. President, the Senator from Michigan [Mr. FERGUSON] and the Senator from Illinois [Mr. DOUGLAS] went over the bill very thoroughly, as did also the Senator from Missouri [Mr. DONNELL], I believe.

Mr. DOUGLAS. Mr. President, is there any member of the Judiciary Committee who would prefer to make a statement on the bill? If not, I should be glad to explain it.

The bill is designed to meet the following situation: During the war a number of private businesses as a patriotic contribution to the war effort gave to the Government the right to use patents without fee and without compensation under certain royalty-free license agreements. Now they find that under the terms of many of these license agreements, it is impossible to cancel them until the war has been officially declared at an end by a Presidential proclamation or by act of Congress.

The bill as originally introduced provided that the department or agency heads could enter an agreement to amend, cancel, or modify such license agreements. As I understand it, the Judiciary Committee has stricken out the words "amendment, modification, or" so that as amended the bill will merely give these Government officers authority to agree to cancel these royalty-free license agreements where the officer in question deems such action warranted by the equities existing by reason of changes in circumstances since the original granting of the license by these private firms.

The VICE PRESIDENT. The question is on agreeing to the committee amendment.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

EXTENSION OF PATENTS OF PERSONS SERVING IN THE ARMED FORCES DURING WORLD WAR II

The bill (H. R. 4692) to provide for the extension of the term of certain patents of persons who served in the military or naval forces of the United States during World War II was announced as next in order.

The VICE PRESIDENT. Is there objection to the present consideration of the bill?

Mr. SCHOEPPEL. Reserving the right to object, Mr. President, may we have a brief explanation of the bill?

Mr. KILGORE. Mr. President, the bill applies only to patents belonging to members of the Armed Services, who, during the war, could not use the patents because the operation of the patents was completely suspended because of the war. The bill therefore will provide that the loss of time on that account, out of the 17 years' life of the patent, be compensated for.

An identical bill was passed following World War I.

This measure does not apply to the owner of a patent who has received royalties; such a case is excluded. The bill applies only to cases in which there has been a suspension of the operation of the patent because of military operations during the war.

The VICE PRESIDENT. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on the Judiciary with an amendment on page 2, line 14, after the word "equaling", to strike out "twice."

The amendment was agreed to.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time and passed.

SALE OF SHIPYARD FACILITIES AT ORANGE, TEX.

The joint resolution (H. J. Res. 373), relating to the sale of certain shipyard facilities at Orange, Tex., was considered, ordered to a third reading, read the third time, and passed.

MERIT CO.

The Senate proceeded to consider the bill (S. 1027) for the relief of the Merit Co., which had been reported from the Committee on the Judiciary, with an amendment, on page 1, line 6, after the figures "$47,427", to insert "less appropriate tax adjustments to the extent that the taxpayer has benefited from this loss in computing his Federal excess-profits tax and income tax liability for any year", so as to make the bill read:

Be it enacted, etc., That the Secretary of the Treasury is authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to the Merit Co., of Chicago, Ill., the sum of $47,427 less appropriate tax adjustments to the extent that the taxpayer has benefited from this loss in computing his Federal excess-profits tax and income tax liability for any year, in full satisfaction of its claim against the United States for additional compensation for work performed and materials furnished by it under purchase orders Nos. 5C-8010 and 5C-14717 (contract NOy-8173/8175), which were placed with it by the Bureau of Yards and Docks of the Navy Department: *Provided*, That no part of the amount appropriated in this act in excess of 10 percent thereof shall be paid or delivered to or received by any agent or attorney on account of services rendered in

connection with this claim, and the same shall be unlawful, any contract to the contrary notwithstanding. Any person violating the provisions of this act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding $1,000.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

RESOLUTION PASSED OVER

The resolution (S. Res. 187) favoring a review of the policy of dismantling German industrial establishments was announced as next in order.

Mr. PEPPER and other Senators. Over.

The VICE PRESIDENT. Objection being made, the resolution will be passed over.

IMPROVEMENTS TO THE CAPITOL POWER PLANT

The bill (H. R. 6281) to provide for certain improvements relating to the Capitol Power Plant, its distribution systems, and the buildings and grounds served by the plant, including proposed additions, was considered, ordered to a third reading, read the third time, and passed.

TRANSFER OF FORT DES MOINES, IOWA, TO THE STATE OF IOWA—BILL PASSED OVER

The bill (H. R. 4569) authorizing the transfer of Fort Des Moines, Iowa, to the State of Iowa was announced as next in order.

Mr. MORSE. Mr. President, may we have an explanation?

Mr. HOLLAND. Mr. President, I shall be glad to yield for this purpose to my colleague the Senator from Washington [Mr. CAIN], who also is a member of the Public Works Committee.

Mr. CAIN. Mr. President, in the absence of the Senator from California [Mr. DOWNEY], who was to discuss this measure, I shall make the following statement:

The bill as amended simply authorizes the transfer of about 640 acres of land with improvements thereon, known as the Fort Des Moines Army Post, now owned by the Federal Government. This property has been declared surplus by the Federal Government; and the State of Iowa, which formerly owned the property, and gave it to the Federal Government about the year 1901, desires to have it returned now for use by its National Guard, and for other purposes.

The land involved was originally in the possession of the State of Iowa, which gave it, for reasons of national security, to the Federal Government. The Federal Government has now declared the property surplus, and is willing and desirous of returning it to its original owners.

Mr. MORSE. Mr. President, I suspect that the bill has a great deal of merit to it; for example, as pointed out by the Senator from Washington, the land originally was given to the Federal Government by the State of Iowa. I understand that part of the use of the land, if it is returned to the State of Iowa, will be for National Guard purposes; and to the extent that that is true, this case falls within the pattern of the procedure established with respect to the transfer of California land.

However, Mr. President, we have before the Senate several other cases involving the transfer of fort property, which originally was donated by the State concerned to the Federal Government, such as the property at Salt Lake City, in which the Senator from Utah [Mr. WATKINS] is very much interested; and the Fort Wayne property, at Detroit, Mich., in which the senior Senator from Michigan [Mr. VANDENBERG] and the junior Senator from Michigan [Mr. FERGUSON] are very much interested.

It happens that I intend to be in Des Moines, Iowa, on Saturday of this week; and while there I wish to give this my personal inspection.

I do not think 2 months or so delay between now and January will greatly inconvenience the State of Iowa in regard to this matter.

Therefore, for the time being, I object.

The VICE PRESIDENT. Objection is heard.

Mr. HICKENLOOPER. Mr. President, will the Senator withhold his objection until I can make a brief observation?

Mr. MORSE. I withhold the objection.

Mr. HICKENLOOPER. As was stated by the Senator from Washington, Mr. President, this land was originally given by the State of Iowa to the Federal Government for the establishment of Fort Des Moines, about 1901.

The only improvements which have been put on this land by the Federal Government have been officers' quarters and enlisted men's barracks, a parade ground, and certain storage and depot facilities customary around a fort.

During the recent war the WAC training barracks were erected there. They are jerry-built structures of a temporary nature. The Government has abandoned this property; it is surplus. The Government is not operating Fort Des Moines any more. About three-quarters of the entire area is nothing but fenced-in farm land. There are no permanent facilities which could reasonably be used at this time under any program of the Federal Government. A housing project now is using the temporary quarters, under contracts with the city of Des Moines; and the State of Iowa proposes to carry out those contracts, and to continue the housing project, but eventually to use all the land for National Guard purposes and other public purposes.

I believe there is no substantial loss to the Federal Government in this matter. The State of Iowa furnished the land, in the first place; and I believe there will be no donation of existing facilities which could conveniently or economically be used at this time by the Federal Government.

I merely make this statement for the RECORD. I thank the Senator from Oregon for withholding the objection until I could make this statement.

Mr. MORSE. Mr. President, the statement the Senator from Iowa has made will be very helpful in connection with the further consideration of this matter, and I thank him for presenting it.

Mr. President, I object to the present consideration of the bill.

The VICE PRESIDENT. Objection being heard, the bill will be passed over.

Mr. CAIN. Mr. President, let me say that I am grateful to the Senator from Oregon for his willingness to examine the project in Iowa in the near future; and I think that willingness on his part will result in the early passage of the bill.

The VICE PRESIDENT. Objection has been made, and the bill has been passed over.

The clerk will state the next measure on the calendar.

DISPOSAL OF CERTAIN WITHDRAWN PUBLIC TRACTS OF LAND

The bill (S. 1543) to authorize the disposal of withdrawn public tracts too small to be classed as a farm unit under the Reclamation Act, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted, etc., That, in accordance with the provisions of this act and notwithstanding the provisions of any other law, the Secretary of the Interior, hereinafter styled the Secretary, is authorized, in connection with any Federal irrigation project for which water is available, and after finding that such action will be in furtherance of the irrigation project and the act of June 17, 1902 (32 Stat. 388), and acts amendatory thereof or supplemental thereto, hereinafter styled the Reclamation Act, to dispose of any tract of withdrawn public land which, in the opinion of the Secretary, has less than sufficient acreage reasonably required for the support of a family and is too small to be opened to homestead entry and classed as a farm unit under the Reclamation Act.

SEC. 2. The Secretary is authorized to sell such land to resident farm owners or resident entrymen, on the project upon which such land is located, at prices not less than that fixed by independent appraisal approved by the Secretary, and upon such terms and at private sale or at public auction as he may prescribe: *Provided*, That such resident farm landowner or resident entryman shall be permitted to purchase under this act not more than 160 acres of such land, or an area which, together with land already owned or entered on such project shall not exceed 160 irrigable acres.

SEC. 3. After the purchaser has paid to the United States all the amount on the purchase price of such land, a patent shall be issued. Such patents shall contain a reservation of a lien for water charges when deemed appropriate by the Secretary, and reservations of coal or other mineral rights to the same extent as patents issued under the homestead laws and also other reservations, limitations, or conditions as the Secretary may deem proper.

SEC. 4. The moneys derived from the sale of such lands shall be covered into the reclamation fund and be placed to the credit of the project on which such lands are located.

SEC. 5. The Secretary of the Interior is authorized to perform any and all acts and to make rules and regulations necessary and proper for carrying out the purposes of this act.

BILL PASSED OVER

The bill (S. 1728) to prohibit discrimination in employment because of

race, color, religion, or national origin, was announced as next in order.

Mr. JOHNSTON of South Carolina and other Senators. Over.

The VICE PRESIDENT. The bill will be passed over.

Mr. LUCAS. Mr. President, may I ask about the situation regarding Senate bill 1728?

Mr. JOHNSTON of South Carolina. Mr. President, that bill has just been called on the calendar, and I objected to it.

The VICE PRESIDENT. Objection having been made, the bill has been passed over.

AMENDMENT OF HAWAIIAN ORGANIC ACT RELATIVE TO DISQUALIFICATION OF LEGISLATORS

The bill (H. R. 4000) to amend section 16 of the Hawaiian Organic Act relative to disqualification of legislators was considered, ordered to a third reading, read the third time, and passed.

AMENDMENT OF SECOND SUPPLEMENTAL NATIONAL DEFENSE APPROPRIATIONS ACT, 1943

The bill (H. R. 5934) to amend the Second Supplemental National Defense Appropriation Act, 1943, approved October 26, 1942 (56 Stat. 990, 999), and for other purposes, was considered, ordered to a third reading, read the third time, and passed.

The VICE PRESIDENT. That completes the calendar.

ESTABLISHMENT AND OPERATION OF RARE AND PRECIOUS METALS EXPERIMENT STATION AT RENO, NEV.

Mr. O'MAHONEY. Mr. President, the House of Representatives has passed and sent to the Senate, either yesterday or perhaps earlier today, House bill 2386, to provide for the establishment and operation of a rare and precious metals experiment station at Reno, Nev.

Mr. DONNELL. Mr. President, will the Senator yield?

Mr. O'MAHONEY. I yield.

Mr. DONNELL. Is the Senator from Wyoming referring to a measure not in connection with the calendar?

Mr. O'MAHONEY. This is in the nature of a measure in connection with the calendar call.

Mr. DONNELL. May I inquire, with the Senator's permission, about Calendar No. 382, Senate bill 478, for the relief of Carl Piowaty and W. J. Piowaty? I thought it was to come up today.

The VICE PRESIDENT. No order to that effect has been entered.

Mr. DONNELL. I was inquiring about that bill, Senate bill 478, Calendar 382. Was it not passed over during the call of the calendar yesterday, until today?

Mr. PEPPER. Mr. President, it was a part of the carry-over of the calendar until today. Let me say that the solicitude of the able Senator from Missouri [Mr. DONNELL] is not comparable to the continuing solicitude of the Senator from Florida about Mr. Piowaty.

So I wonder whether it might not be possible today, as one of the happy, concluding incidents of this session, to have the bill passed without objection.

The VICE PRESIDENT. No order has been entered making the bill a special order for consideration. It will have to come up with other bills on the calendar.

The Senator from Wyoming has the floor.

Mr. O'MAHONEY. Mr. President, if the Senator will permit me to complete my statement, I think that will help me to clarify the matter to which I have begun to refer.

I was speaking of a bill which was passed by the House of Representatives. The bill provides for the operation of a rare and precious metals experiment station at Reno, Nev.

The office of the Senator from Nevada [Mr. MCCARRAN] advised me earlier in the day that the distinguished Senator from Nevada had telephoned from overseas, asking that request be made of me to see whether this bill, which was passed yesterday by the House of Representatives, could be considered by the Senate today.

I have consulted the members of the committee, and they are willing that I lay this unanimous-consent request before the Senate.

The request therefore is that the bill, instead of being referred to the committee for action, may be considered by the Senate now. The bill authorizes the expenditure necessary to reestablish the station on the lands of the University of Nevada. An appropriation in the sum of $750,000 is authorized for the erection and equipment of the building, with an appropriation of $250,000 annually for maintenance and operation of the experiment station. Therefore it will be necessary, even if the bill shall become law, for appropriations to be made. So, Mr. President, on behalf of the Senator from Nevada, I make this unanimous-consent request.

The VICE PRESIDENT. Is there objection?

Mr. CORDON. Mr. President, will the Senator yield?

The VICE PRESIDENT. Does the Senator from Wyoming yield to the Senator from Oregon?

Mr. O'MAHONEY. I yield.

Mr. CORDON. Mr. President, as a member of the Committee on Interior and Insular Affairs, I am familiar with the bill, as it had tentative though not full consideration by our committee. The bill would establish a needed laboratory of the Bureau of Mines in Nevada to take the place of a smaller and inadequate structure that is now used. That is requested by the present Bureau of Mines, and I join with the distinguished Senator from Wyoming in requesting consideration of the House bill.

The VICE PRESIDENT. Is there objection?

Mr. FULBRIGHT. Mr. President, reserving the right to object, calendar order 1156, the bill (H. R. 5731) to discharge a fiduciary obligation to Iran, was on the call of the calendar objected to by the Senator from North Dakota, who is not now present. I merely want to serve notice that, at the first opportunity tomorrow, if there is opportunity, I wish to move to bring up the bill. It is a very small bill, and I think when it is explained to the Senator from North Dakota there will be no objection.

The VICE PRESIDENT. Is there objection to the consideration of House bill 2386?

Mr. SALTONSTALL. Mr. President, if I may ask the Senator from Wyoming, did I understand him to say it will require $250,000 annually to maintain the experiment station?

Mr. O'MAHONEY. The bill authorizes an appropriation of $250,000 annually to maintain the station.

Mr. SALTONSTALL. Did I correctly understand the Senator to say the bill contains authority to appropriate, as well as authority to authorize?

Mr. O'MAHONEY. No; it is merely an authorization. I say appropriations would have to be granted, to carry out the authorization either for the erection of the station or for its maintenance. So that that would have to go through the ordinary budgetary procedure. It is merely an authorization bill.

Mr. DONNELL. Mr. President, will the Senator yield?

The VICE PRESIDENT. Does the Senator from Wyoming yield to the Senator from Missouri?

Mr. O'MAHONEY. I yield.

Mr. DONNELL. Will the Senator tell us, then, why there is any great urgency about the passage of the bill at this time, if an appropriation would be necessary in order to make it effective?

Mr. O'MAHONEY. That is true of any authorization bill. I am merely reciting to the Senate that the chairman of the Committee on the Judiciary has made this telephonic request to me from overseas to present the request to the Senate. I was going to say that I have secured the consent of the Committee on Interior and Insular Affairs to make the request. We have just heard the Senator from Oregon say he is familiar with the matter, and that such laboratory or experiment station, in his opinion, should be established.

Mr. DONNELL. Mr. President, reserving the right to object, did I correctly understand the Senator from Oregon to say the committee had not completed its consideration of the bill?

Mr. CORDON. Not to the extent of reporting it.

Mr. DONNELL. Mr. President, we, therefore, do not have the benefit of the recommendations of the committee at this time.

Mr. CORDON. That is correct.

Mr. DONNELL. Mr. President, with all due respect to our good friend who is in Europe, for whom I personally have the greatest respect, it appears to me that there is no real urgency for the passage of the bill. Obviously it is highly improbable that an appropriation would be made during the present session, and, therefore, inasmuch as no harm will be done by the bill's going over, and since the committee has not given us the benefit of its report, I respectfully object.

CARL PIOWATY AND W. J. PIOWATY

The VICE PRESIDENT. The Chair wishes to correct a statement he made a while ago about Calendar 382, Senate bill 478. There seemed to have been no order, the Chair stated, in regard to it, but the RECORD discloses it was agreed yesterday that the bill could be called along with other bills on the calendar. But there was no special order made of it.

Mr. PEPPER. Mr. President, I do not insist upon the bill being considered now. I have talked with the Senator from Kansas. He said he had not been able to satisfy certain of the Senators present.

Mr. LUCAS. Mr. President, if the Senator will yield, here is a bill that has been on the calendar ever since the beginning of the session. No one has pleaded more eloquently than the Senator from Florida for the relief of Carl Piowaty and W. J. Piowaty. He has been persistent and persevering. I told the Senator from Florida that before final adjournment I would call up this bill for him. I hope those on the other side of the aisle will allow Carl and Will to get a little relief here, as well as the Senator from Florida. [Laughter.]

Mr. PEPPER. Mr. President, if the Senator will yield, I suspect the principal relief will be to the Senate. I think Senators are pretty well acquainted with both the Piowatys.

Mr. LUCAS. That may be true; but I have heard this bill debated on the floor of the Senate, and I honestly believe there is merit in the contention made by the able Senator from Florida that these two gentlemen are entitled to relief. If we cannot get the bill through on the calendar call tomorrow, I assure my friend I am going to move to take it up.

Mr. PEPPER. I appreciate the statement by the able majority leader. It involves only $8,000 for the two men. We merely felt as a matter of principle they were entitled to the relief.

Mr. President, I desire to submit a conference report——

Mr. DONNELL. Mr. President, before the Senator does that, I think I am correctly informed that objection made on this side to the relief of the Piowatys, and of the Senator himself, has been withdrawn. Am I correct in that?

The VICE PRESIDENT. Is there objection to the present consideration of the bill?

Mr. DONNELL. I beg pardon. I misunderstood what was stated. There is objection on this side to Calendar 382, Senate bill 478.

Mr. PEPPER. We will discuss it, and perhaps by tomorrow we can reconcile the differences.

PURCHASE OF AUTOMOBILES OR OTHER CONVEYANCES BY DISABLED VETERANS—CONFERENCE REPORT

Mr. PEPPER. Mr. President, I submit a conference report on the bill (S. 2115) to authorize payments by the Administrator of Veterans' Affairs on the purchase of automobiles or other conveyances by certain disabled veterans, and for other purposes, and I ask unanimous consent for its present consideration.

The VICE PRESIDENT. The conference report will be read for the information of the Senate.

The report was read, as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 2115) to authorize payments by the Administrator of Veterans' Affairs on the purchase of automobiles or other conveyances by certain disabled veterans, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House and agree to the same.

CLAUDE PEPPER,
LISTER HILL,
WAYNE MORSE,
Managers on the Part of the Senate.

J. E. RANKIN,
A. LEONARD ALLEN,
OLIN E. TEAGUE,
Managers on the Part of the House.

The VICE PRESIDENT. Is there objection to the present consideration of the report?

There being no objection, the Senate proceeded to consider the report.

Mr. PEPPER. Mr. President, if I may make a brief statement about this matter, the Congress in 1947 enacted legislation under which the United States Government would contribute $1,600 to a veteran who, through service connection, had sustained the loss of one or both feet. The Eighty-first Congress amended the 1947 law to provide that veterans of World War II—and the 1947 bill applied only to veterans of World War II—should have received $1,600 toward the purchase of an automobile, if they had service-connected disability, not only causing them the loss of one or both feet, but if they were for all practical purposes blind, as the result of service injuries, or if they lost the use of, or lost one or both hands. Upon the recommendation of the Committee on Labor and Public Welfare the bill was passed. It included three classes of beneficiaries, two new ones in addition to those covered by the 1947 bill.

The House of Representatives adopted the Senate bill, adding the two new classes of coverage, but extended the bill to cover World War I veterans as well as World War II veterans. So the amendment which was in conference was the amendment added to the bill by the House, adding World War I veterans to the coverage. The conferees met a second time upon this measure, and, finally, when it became apparent to a majority of the Senate conferees that we would probably get no bill at all if we did not accept the House amendment, because of the insistence of the House conferees upon their amendment, a majority of the conferees of the Senate agreed to recommend to the Senate that the Senate accept the House amendment.

The effect of the House amendment is to add approximately 10,000 beneficiaries to the benefited classes at an added cost of approximately $9,000,000, instead of the bill costing approximately $16,000,000 as the Senate passed it, giving $1,600 toward the purchase of an automobile to a veteran of World War II, who, through service injuries, was blind, or lost the use of or lost both feet, or lost the use of or lost both hands. As the House has amended the bill, it would cover those three classes, and would cover World War I veterans as well as World War II veterans.

I add only that there is a precedent for the inclusion of World War I veterans in this restricted class of beneficiaries. It is to be found in a bill which passed this Congress and which presumably has been signed by the President in which we provided up to $10,000 for the adaptation of a home so that it would accommodate a wheel-chair veteran, who, either through the loss of the use of legs to such a point that he had to use a wheel chair, or because of injuries sustained to his spinal column, or because of injuries to the brain, he had to be confined to a wheel chair. If he were confined to a wheel chair for purposes of locomotion in his home, the United States Government would allow him $10,000 for the adaptation of his home to the use of a wheel chair. That included World War I veterans as well as World War II veterans.

There were five conferees on the part of the Senate, the Senator from Alabama [Mr. HILL], the Senator from Oregon [Mr. MORSE], the Senator from Illinois [Mr. DOUGLAS], the Senator from Ohio [Mr. TAFT], and myself. The Senate conferees divided three to two. The Senator from Alabama, the Senator from Oregon, and the Senator from Florida agreed, feeling we would not get a bill, in view of the insistence of the House conferees upon their amendment, unless we accepted their amendment. That is the judgment of the majority of the conferees.

The VICE PRESIDENT. The question is on agreeing to the conference report.

Mr. DOUGLAS. Mr. President, I should like to make a brief preliminary statement on this matter, if I may.

The proposal to give automobiles to crippled veterans began 3 years ago with the granting of automobiles to veterans of World War II who either had suffered amputation or loss of use of one or both legs, and were assigned automobiles to enable them to move about and also to assist in their vocational rehabilitation. That was a very worthy act.

Congress has already passed a bill extending the same privilege to those veterans who have not already applied. Approximately 20,000 have been given automobiles, at a total cost of approximately $32,000,000.

The pending bill, both in the form in which it was passed by the Senate and in the form which is recommended by the conference committee, goes far beyond that point, because it extends the granting of automobiles at $1,600 each not merely to those who have lost one or both legs or the use of their legs, but also to the blind. There are 1,400 of

such veterans of World War II. It extends the grant not only to those who have lost the use of both hands, but to those who have lost the use of one hand. There are 3,700 such cases. The grant is extended also to those who have lost the use of one hand. There are 4,200 of the latter cases.

So we are providing automobiles for approximately 8,000 additional veterans at a total additional cost of approximately $12,600,000.

The bill went to the House, and the House promptly proceeded to put into the same category those who had been similarly injured in World War I, a total of 5,700 cases, involving an additional expense of $9,000,000 to the $16,000,000 provided in the Senate bill, or a total of $25,000,000, which it should be remembered will be added to the original cost of $32,000,000.

I will say that the Senator from Ohio [Mr. TAFT] and I felt that this matter had been carried too far. We were both sympathetic with the idea of vocational rehabilitation. We were both sympathetic to caring for veterans who had been severely disabled and who found it difficult to move about. When the matter originally came up we felt it should not be extended to those who had lost the use of a hand, because the loss of the use of a hand in warfare does not primarily interfere with the ability of a person to move about on foot or to ride on streetcars or busses.

I am speaking for myself, and I think I am also speaking for the Senator from Ohio, when I say I believe it has been carried too far. We are extending the same grants to veterans of World War I, 30 years after the fact, when certainly it will not help in vocational rehabilitation, since that has presumably been completed.

I should like to submit for the RECORD an analysis of this subject which I have made. I am not certain whether the Senator from Ohio will join me in this analysis, so I am merely offering it in my own behalf. I offer it for the information and guidance of the Senate and, I hope, also of the executive department.

There being no objection, the analysis was ordered to be printed in the RECORD, as follows:

STATEMENT IN RE S. 2115

BASIC LAW

The purchase of automobiles by the Federal Government for certain disabled veterans was first authorized by Public Law 663 of the Seventy-ninth Congress. The provisions of that law were intended to be in effect for only 1 year. However, the program was extended for an additional year by Public Law 161, Eightieth Congress, and for a third year by Public Law 904 of the Eightieth Congress.

The original law contained definite restrictions which confined the eligible class to those veterans of World War II entitled to compensation for the loss, or loss of use, of one or both legs at or above the ankle. The presence of such restrictions makes it clear that the basic purpose of that enactment was to provide rehabilitative assistance to returning veterans, assistance of a type that would contribute fundamentally to the readjustment of those veterans to civilian life. It was believed that the automobile so furnished would aid in the rehabilitation of those extreme cases where the mobility of the veteran had been seriously restricted or destroyed, due to injury to, or loss of, the lower limbs. Furthermore, the requirement of the basic law that the veteran must obtain an operator's license clearly indicates that the automobile to be provided was intended as a type of a prosthetic appliance to aid in the personal rehabilitation of the veteran.

THE SENATE VERSION OF S. 2115

Now S. 2115 as it passed the Senate very greatly increased the scope of handicapping conditions which would make veterans eligible to receive an automobile under this program. It extended eligibility to all World War II veterans who have lost, or lost the use of, one or both hands or one or both feet and to the blind as defined in the bill. This in itself constitutes a very great liberalization—a liberalization which represents an almost complete abandonment of the basic philosophy which sustained the original program.

The program encompassed by the Senate version of S. 2115, while not so unrestrained and far-reaching as the House version of that bill, represents a complete departure from the basic legislative policy behind this program, and the inauguration of an entirely different policy, which, if carried to its logical conclusion may well result in the Federal Government's furnishing an automobile to any veteran who incurred a wartime disability.

In considering this matter it must be remembered that the automobile which S. 2115 proposes to furnish the veteran is but a small item in the total scale of benefits which this Government is now providing its disabled veterans. At the present time these veterans are eligible for increased rates of compensation ranging from $97 to $360 per month. These veterans are also eligible for benefits in the form of prosthetic appliances, hospitalization, medical care, vocational rehabilitation training, and additional compensation for certain dependents.

Moreover, the benefits for blind veterans also include trained seeing-eye dogs and certain mechanical and electrical equipment designed to assist in overcoming the handicap of blindness.

It should be clearly noted that in an official report submitted to the chairman of the House Committee on Veterans' Affairs on S. 2115 as it passed the Senate, the Veterans' Administration pointed out that all the liberalizations contained in the bill were of dubious merit—that they might in fact serve to deter rather than to aid the rehabilitation of many of the veterans covered by the proposed legislation.

Another point which should be borne in mind in the consideration of this matter is that the present law has been in effect for a period of 3 years without change, and that Public Law 343, Eighty-first Congress, dated October 10, 1949, provides for the extension of that law until June 30, 1950, thus preserving a continuity of the original program and the original philosophy behind that program.

Because most of the twenty-odd thousand veterans who qualified under the basic law have already been furnished an automobile by the Government, the estimated cost of extending the present program would be only about $352,000, whereas the estimated cost of adopting the Senate version of S. 2115 would be $16,000,000, while the estimated cost of adopting the House version would total $25,120,000.

Economy certainly is not the fundamental issue involved in a question of this type, but surely the saving of fifteen to twenty-five million dollars is not to be taken lightly, particularly when the agency most concerned with the administration of the program advises the Congress that the outlay which it contemplates may constitute a disservice rather than a service to the veteran concerned.

THE HOUSE VERSION OF S. 2115

In its consideration of S. 2115, the House of Representatives not only ratified and affirmed the broad digressions from basic policy contained in the Senate bill, but it compounded those digressions by extending the contemplated program to include veterans of World War I, on the dubious theory of nondiscrimination.

The program of providing for automobiles for amputees, designed as it was as a rehabilitation measure to aid the veterans of the late war to readjust to civilian life, did not in any way contemplate the extension of that program to veterans of World War I. At the time this program was adopted most veterans of World War I had already spent more than 25 years in civilian life, and it is only reasonable to assume that their adjustment to civilian life, if ever it was to be realized, must certainly have been realized in that quarter century.

Moreover, a considerable number of World War I veterans have already reached the retirement age, and certainly do not require the readjustment assistance contemplated by the House amendment. Indeed, to be consistent in its theory of nondiscrimination the House would of necessity have been obliged to extend the coverage of this bill to all American veterans, not merely those of World Wars I and II.

Of course the whole thesis of nondiscrimination as among the veterans of various wars is dangerous. The history of Federal legislation in the field of veterans' affairs clearly shows that with each successive war the Federal Government has both broadened the scope and increased the size of the benefits extended to veterans. The GI bill of rights, with its educational provisions, subsistence allowances, on-the-job training, and other benefits was undreamed of in the days of World War I. The veterans of the Spanish-American war did not receive any bonus such as was paid to World War I. Nor has any bonus as yet been authorized for the veterans of World War II. And so it goes.

Now if at this late date, we are to undertake to achieve a nondiscriminatory treatment of all veterans, we are faced with an impossible task, both economically and administratively. Yet, if the philosophy of the House amendment to this bill prevails, we shall see a continuous extension of all veterans' programs to a degree undreamed of, and involving expenditures beyond calculation.

The fact is that neither logic nor merit supports the House amendment. The amendment represents only a further retreat from the basic policy on which this program was founded. Either this program is to remain a valid rehabilitation measure, or it is to become a vehicle whose sole purpose is the constant and expanding disposition of favors. The amendment which the House has adopted, in addition to representing a complete departure from basic policy, represents also a new expenditure of $9,000,000 by the Federal Government. A similar amendment at a later time on another bill can only mean increased expenditures. If we are to retain any sense of integrity and any pretense of adherence to sound policy in veterans' affairs programs, the amendment adopted by the House must be rejected.

In order that the Senators may note for themselves the scope of the extensions contemplated by both the Senate and the House versions of this bill, the following table has been prepared, showing the present law, the contemplated changes, and the comparative costs involved:

Comparison of present law with S. 2115 as it passed the Senate and as amended by the House

Present law			S. 2115 (Senate version)			S. 2115 (House version)		
1. Covers only World War II veterans. 2. Provides 1 auto only to veteran. 3. Not exempt from creditors. 4. Government pays up to $1,600 per auto. Veteran cannot pay difference. 5. Must have operator's license. 6. Eligibility: (1) Loss or loss of use of 1 or both legs at or above ankle.			1. Same as present law. 2. Same. 3. Exempt from creditors. 4. Government pays $1,600 per auto. Veteran can pay difference. 5. No operator's license required. 6. Eligibility: (1) Loss or permanent loss of use of 1 or both feet. (2) Loss or permanent loss of use of 1 or both hands. (3) Permanent impairment of vision of both eyes (20/200).			1. Includes both World War I and II veterans. 2. Same. 3. Same as Senate bill. 4. Same as Senate bill. 5. Same as Senate bill. 6. Eligibility: Same as Senate bill.		
7. Number and class of eligibles, and estimated cost:			7. Number and class of eligibles, and estimated cost:			7. Number and class of eligibles, and estimated cost:		
Type	Number	Cost	Type	Number	Cost	Type	Number	Cost
(1) Foot cases	220	$352,000	(1) Same, plus 9,780 new World War II cases as follows:			(1) Same as Senate bill, plus 5,700 new World War I cases as follows:		
			(2) Blind	1,400	$2,240,000	(2) Blind	700	$1,120,000
			(3) Loss of hand	3,700	5,920,000	(3) Loss of hand	970	1,552,000
			(4) Loss of use of hand	4,200	6,720,000	(4) Loss of use of hand	875	1,400,000
			(5) Loss of both hands	100	160,000	(5) Loss of both hands	5	8,000
			(6) Loss of use of both hands	100	160,000	(6) Loss of use of both hands	25	40,000
			(7) Loss of one hand plus loss of use of other hand.	50	80,000	(7) Loss of one hand plus loss of use of other hand.	10	16,000
			(8) Combination of hand and foot disabilities.	230	368,000	(8) Combination of hand and foot disabilities.	215	304,000
						(9) Foot cases	2,900	4,640,000
			Total new cases	9,780	15,648,000	Total new cases	5,700	9,120,000
Summary: New cases Estimated cost	220 $352,000		[1] 10,000 [2] $16,000,000			[1] 15,700 [2] $25,120,000		

[1] Includes 220 cases covered by existing law.
[2] Includes $352,000 covered by existing law.

In addition there is attached hereto a copy of the official report of the Veterans' Administration on S. 2115 as it passed the Senate which was submitted to the chairman of the House Veterans' Affairs Committee. I am confident that a careful perusal of these documents will greatly aid the Senate and the executive in reaching a sound decision on this matter.

VETERANS' ADMINISTRATION,
Washington, D. C., August 4, 1949.

Hon. JOHN E. RANKIN,
Chairman, Committee on Veterans' Affairs, House of Representatives, Washington, D. C.

DEAR MR. RANKIN: Reference is made to your recent request for a report on S. 2115, Eighty-first Congress, an act to authorize payments by the Administrator of Veterans' Affairs on the purchase of automobiles or other conveyances by certain disabled veterans, and for other purposes.

The purpose of the bill is to authorize the Administrator of Veterans' Affairs to pay an amount not to exceed $1,600 in total or partial payment of the purchase price of an automobile or other conveyance being purchased by any World War II veteran entitled to compensation under laws administered by the Veterans' Administration for any of the following:

(a) Loss or permanent loss of use of one or both feet;

(b) Loss or permanent loss of use of one or both hands;

(c) Permanent impairment of vision of both eyes of the following status: Central visual acuity of 20/200 or less in the better eye with corrective glasses, or central visual acuity of more than 20/200 if there is a field defect in which the peripheral field has contracted to such an extent that the widest diameter of visual field subtends an angular distance no greater than 20° in the better eye.

The bill would limit the veteran's entitlement to one automobile or other conveyance, and specifically preclude any liability by the Government for repairs, maintenance, replacement, or damages incident to its use. In addition, it would be provided that any vehicle furnished pursuant to this bill, if enacted, or Public Law 663, Seventy-ninth Congress, would be exempt from the claims of creditors and would not be liable to attachment, levy, or seizure by or under any legal or equitable process. The veteran would be required to make application within 3 years after date of enactment or 3 years after date of discharge, if discharged subsequent to enactment.

The First Supplemental Appropriation Act, 1947, Public Law 663, Seventy-ninth Congress, approved August 8, 1946, as extended, among other things, authorized the Administrator to pay the total purchase price of an automobile or other conveyance properly equipped at a cost not to exceed $1,600, for any World War II veteran entitled to compensation under laws administered by the Veterans' Administration for the loss, or loss of use, of one or both legs at or above the ankle. Public Law 663 also provided that to be eligible a veteran must be a licensed operator and be able to operate such a vehicle in a manner consistent with his own safety and the safety of others. The act specifically precluded any liability for the repair, maintenance, or replacement of such vehicle.

Numerous bills designed to provide liberalizations of this benefit have been introduced since the enactment of Public Law 663, Seventy-ninth Congress. One such bill, S. 1391, Eightieth Congress, which was substantially similar to the subject bill, was reported favorably by the Senate Committee on Labor and Public Welfare on July 2, 1947 (S. Rept. No. 418), and was passed by the Senate as amended by that committee on July 19, 1947. The bill was pending in the House of Representatives at the time the Eightieth Congress adjourned sine die.

The limitations contained in Public Law 663, as extended, which confine the eligible class to veterans of World War II entitled to compensation for the loss, or loss of use, of one or both legs at or above the ankle, suggest that the basic purpose of such enactment was to provide rehabilitative assistance to returning veterans who sustained a material impairment of mobility by injuries to the lower limbs. The requirement of an operator's license also suggests that it was intended that the conveyance be regarded as something in the nature of an additional prosthetic appliance for the direct use of the veteran.

The inclusion of veterans with disabilities involving the upper limbs raises the question as to whether the problem of mobility, referred to above, is present to a serious degree. Many such veterans can move about with relative ease, despite some difficulties which may occasionally occur in crowds. Although it may be urged that the operation of an automobile would contribute to the restoration of normal self-confidence of veterans in this class, there are other effective methods available under existing laws for accomplishing the same result, particularly in connection with the process of physical or vocational rehabilitation training available to such veterans. Furthermore, some veterans in this category would be qualified under the present bill but, being unable to drive, could not derive the same psychological stabilization which might be supposed to flow from the operation of the vehicle.

With respect to the proposed inclusion of veterans with impaired vision, it is possible that the development of initiative and self-reliance, both of which are regarded as essential to the basic welfare of such veterans, might be retarded in some instances by encouraging such a veteran to become habituated to his own automobile as a primary means of transportation, which automobile would normally of necessity be operated by another person. It is also observed that the broad definition of visual defects contained in the bill would include a substantial number of veterans less than totally disabled, who can see well enough to move about with reasonable safety and rapidity.

The bill would also dispense with the requirement that the veteran be qualified to operate the vehicle. Such a result would appear to be contrary to the theory that a conveyance should be provided by the Government for the personal operation of the veteran as something in the nature of an additional prosthetic appliance. With the removal of this limitation, there would cease

to exist one of the primary reasons for confining the benefit to a selected disabled group, and other veterans with disabilities precluding successful operation of a vehicle, who are not included in this type of legislation, might feel discriminated against.

In considering S. 2115 it is felt that certain general considerations should also be taken into account. For example, it is important to remember that veterans encompassed by the bill are eligible at the present time for increased compensation rates ranging as high as $318 and $360 per month. In addition, they are eligible for other liberal benefits in the form of prosthetic appliances, hospitalization, medical care, vocational rehabilitation training, and additional amounts of compensation for certain dependents, pursuant to Public Law 877, Eightieth Congress, approved July 2, 1948, for cases involving a disability of not less than 60 percent. Other special benefits for blind veterans include trained seeing-eye or guide dogs and certain mechanical and electrical equipment considered as aiding in overcoming the handicap of blindness.

Although any enactment of further legislation in this field is a matter of basic policy for the Congress to determine, it is believed that any proposal to extend such benefits to additional selected classes of disabled veterans presents the fundamental question whether the necessities of those to be benefited are peculiar and urgent in relation to the benefit proposed. Then, too, it is quite possible that any enlargement of the original theory of the benefit provided by Public Law 663, Seventy-ninth Congress, might serve to inaugurate a legislative policy which, by logical progression, could ultimately result in the supplying of automobiles to less seriously disabled veterans.

With respect to the fiscal effect of the bill, it is not possible to present a complete estimate of cost, inasmuch as the requirements pertaining to impairment of vision contained in section 1 (c) do not conform to those used in the Schedule for Rating Disabilities now in effect. While it is possible to identify the approximate number of veterans eligible under the definition used in the bill, it is believed that a small, additional, indeterminate number of veterans would also be eligible. Then, too, it is not known how many additional veterans of World War II on Army and Navy retirement rolls could qualify under the bill.

It is estimated (based on those receiving benefits from the Veterans' Administration) that approximately 10,000 World War II veterans would currently be eligible under the provisions of the bill. The cost of furnishing automobiles or other conveyances to these 10,000 veterans at $1,600 per vehicle would approximate $16,000,000. Included in the 10,000 World War II veterans are an estimated 220 veterans who are expected to become eligible because of the loss, or loss of use of, one or both legs at or above the ankle. Should the authority under Public Law 663 be extended for another year such veterans could qualify under the extension without regard to the enactment of S. 2115.

There would, in all probability, be further expenditures incident to the enactment of this measure in subsequent years, as additional veterans of World War II are discharged from the service or otherwise become eligible for the benefits in question. However, it is believed that such additional cost would be relatively small.

The following advice was recently furnished by the Director, Bureau of the Budget, with respect to a similar report on a substantially similar bill, S. 1425, Eightieth Congress:

"It is noted that your proposed report points out that the limitations contained in Public Law 663, approved August 8, 1946, suggests that the basic purpose of providing automobiles and other conveyances for disabled veterans was to provide rehabilitative assistance to returning veterans who sustained a material impairment of mobility by injuries to the lower limbs. Furthermore, the cost estimates are not the controlling factors in this case. More important, we feel, is the statement contained in the report to the chairman of the House Committee on Veterans' Affairs relative to similar legislation of the Eightieth Congress transmitted to this office by your predecessor on April 15, 1947, that the matter must be considered in relation to 'the welfare of veterans generally and reasonable obligations of the Government to veterans as a whole * * *. It would seem manifestly unwise to inaugurate a legislative policy which by logical progression, and in order to avoid discrimination, might ultimately demand that all seriously disabled veterans be supplied with automobiles in addition to compensation and other benefits.'

"You are advised that for these and other reasons set forth in the proposed report the enactment of this legislation cannot be considered to be in accord with the program of the President.

"In addition, may I refer to the Bureau's letter of June 29 respecting S. 807 in which we stated our belief that provision of special, nonmonetary benefits which will not assist the veteran to surmount his disability is equally applicable to the provisions of S. 1425 insofar as they pertain to the blind, who obviously are incapable of personal operation of the motor vehicles."

Sincerely yours,

O. W. CLARK,
Deputy Administrator,
(For and in the absence of the Administrator.)

The VICE PRESIDENT. The question is on agreeing to the conference report.

The conference report was agreed to.

GRAND TOTAL OF APPROPRIATIONS BY THE EIGHTY-FIRST CONGRESS, FIRST SESSION

Mr. FERGUSON. Mr. President, I assume that the last appropriation bill for this session has been passed. I should like to state that I have obtained from the Appropriations Committee the grand total of regular, annual, supplemental, deficiency, miscellaneous acts, and permanent appropriations by the Eighty-first Congress, first session. It amounts to $46,490,036,699.28. To this should be added cash and contract authorizations amounting to $4,501,413,298, or a total of $50,991,449,997. 28.

Mr. FERGUSON subsequently said:

Mr. President, in line with what I previously indicated by placing in the RECORD the amount of appropriations for this year, I call to the attention of the Senate a statement made by Dr. Nourse, in connection with his resignation. I understand he is resigning, whether or not his resignation is accepted by the President.

In a speech delivered by him before the National Retail Farm Equipment Association today he criticized Government acceptance of "deficit spending as a way of life." He said he foresees economic progress ahead "much greater than the quite creditable record of the past." But he voiced "real concern" over some present-day trends which he said imperil progress. He implied criticism of the high farm price-support program and other administration policies in these words:

I am uneasy when I see farmers demanding stimulative prices while the Government accumulates gigantic surplus holdings, pays subsidies and deficits, and imposes marketing quotas.

I am not happy when I see the Government slipping back into deficits as a way of life in a period when production and employment are high, instead of putting its financial house in order and husbanding reserves to support the economy if less prosperous times overtake us.

I think it is well that we ponder in these closing hours of the Congress the remarks of the financial adviser of the President and the Congress of the United States.

The Senator from Michigan on many occasions has attempted to have deficit spending checked, and has asked the President to check deficit spending, even if the Congress were unable to do so. Now the flag of warning is waved at us by Dr. Nourse. We may even call it writing in the sky which all should heed. While the Senator from Michigan agrees with Dr. Nourse that great progress can be made by America, and by the world, yet such progress cannot be made on the basis of deficit spending. We can progress if we will exercise some economic sense. That has not been shown by the present administration nor by the present Congress.

INVESTIGATION OF ATOMIC ENERGY COMMISSION — AUTHORITY TO FILE MINORITY VIEWS

Mr. HICKENLOOPER. Mr. President, I ask unanimous consent that members of the Joint Committee on Atomic Energy who disagree with the committee report on the recent investigation of the Atomic Energy Commission be authorized to file their views with the Senate at any time, and that if said views are filed after the adjournment of Congress and prior to the final printing of the RECORD for this session, said views may be printed in the RECORD.

The VICE PRESIDENT. Without objection, it is so ordered.

TRANSACTION OF EXECUTIVE BUSINESS

Mr. PEPPER. Mr. President, I move that the Senate, as in executive session, proceed to the consideration of the Executive Calendar, beginning with the treaty on the calendar.

Mr. MORSE. Mr. President, I object to that.

The VICE PRESIDENT. Does the Senator from Oregon yield for the purpose of the Senate going into executive session?

Mr. MORSE. No, Mr. President.

Mr. PEPPER. Mr. President, would the Senator from Oregon allow the consideration of the Executive Calendar as in executive session? I do not know of anything on the calendar of a controversial nature. If we may consider the Executive Calendar, I think it would take less than 5 minutes, including the consideration of the treaty.

Mr. MORSE. Mr. President, protecting my rights, I yield.

The VICE PRESIDENT. Without objection, the Executive Calendar will be considered as in executive session.

Mr. PEPPER. Beginning with the treaty.

The VICE PRESIDENT. Beginning with the first order of business on the calendar.

PROTOCOL PROLONGING THE INTERNATIONAL AGREEMENT REGARDING THE REGULATION OF PRODUCTION AND MARKETING OF SUGAR

The Senate, as in Committee of the Whole, proceeded to consider the Protocol, Executive F (81st Cong., 1st sess.), a protocol dated in London August 31, 1948, prolonging for 1 year after August 31, 1948, the international agreement regarding the regulation of production and marketing of sugar, signed at London on May 6, 1937, which was read the second time, as follows:

PROTOCOL

Whereas an International Agreement regarding the Regulation of the Production and Marketing of Sugar (hereinafter referred to as "the Agreement") was signed in London on 6th May, 1937;

And whereas by a Protocol signed in London on 22nd July, 1942, the Agreement was regarded as having come into force on 1st September, 1937, in respect of the Governments signatory of the Protocol;

And whereas it was provided in the said Protocol that the Agreement should continue in force between the said Governments for a period of two years after 31st August, 1942;

And whereas by further Protocols signed in London on 31st August, 1944, and 31st August, 1945, 30th August, 1946, and 29th August, 1947, it was agreed that, subject to the provisions of Article 2 of the said Protocols, the Agreement should continue in force between the Governments signatory thereof for periods of one year terminating on 31st August, 1945, 31st August, 1946, 31st August, 1947, and 31st August, 1948, respectively;

Now, therefore, the Governments signatory of the present Protocol, considering that it is expedient that the Agreement should be prolonged for a further term as between themselves, subject, in view of the present situation, to the conditions stated below, have agreed as follows:—

ARTICLE 1

Subject to the provisions of Article 2 hereof, the Agreement shall continue in force between the Governments signatory of this Protocol for a period of one year after 31st August, 1948.

ARTICLE 2

During the period specified in Article 1 above the provisions of Chapters III, IV and V of the Agreement shall be inoperative.

ARTICLE 3

1. The Governments signatory of the present Protocol recognise that revision of the Agreement is necessary and should be undertaken as soon as the time appears opportune. Discussion of any such revision should take the existing Agreement as the starting-point.

2. In the event of an agreement based on such revision coming into force before 31st August, 1949, the present Protocol shall thereupon terminate.

3. For the purposes of such revision due account shall be taken of any general principles of commodity policy embodied in any agreements which may be concluded under the auspices of the United Nations.

ARTICLE 4

Before the conclusion of the period of one year specified in Article 1, the contracting Governments, if the steps contemplated in Article 3 have not been taken, will discuss the question of a further renewal of the Agreement.

ARTICLE 5

The present Protocol shall bear the date 31st August, 1948, and shall remain open for signature until 30th September, 1948, provided, however, that any signatures appended after 31st August, 1948, shall be deemed to have effect as from that date.

In witness whereof the undersigned, being duly authorised thereto by their respective Governments, have signed the present Protocol.

Done in London on the 31st day of August, 1948, in a single copy which shall be deposited in the archives of the Government of the United Kingdom of Great Britain and Northern Ireland, and of which certified copies shall be furnished to the signatory Governments.

For the Government of the Union of South Africa:
LEIF EGELAND.
For the Government of the Commonwealth of Australia:
JOHN A. BEASLEY.
For the Government of Belgium:
G. WALRAVENS.
For the Government of Brazil:
MARIO GUIMARÃES
For the Government of Cuba:
JULIO A. BRODERMANN.
Subject to a reservation that the Republic of Cuba will have the right to withdraw from the Agreement, at any time, giving notice to the Government of the United Kingdom, as depository of the Protocol, of the intention to withdraw ninety (90) days in advance.
For the Government of Czechoslovakia:
B. G. KRATOCHVÍL.
For the Government of the Dominican Republic:
A. PASTORIZA.
For the Government of the French Republic:
J. C. H. DE SAILLY.
For the Government of the United Kingdom of Great Britain and Northern Ireland:
ERNEST BEVIN.
For the Government of Hayti:
F. DUVIGNEAUD.
Ad referendum.
For the Government of the Netherlands:
A. BENTINCK.
For the Government of Peru:
M. GRAU P.
For the Government of the Republic of the Philippines:
R. J. FERNANDEZ.
For the Government of Poland:
A. SZEMINSKI.
For the Government of Portugal:
MIGUEL D'ALMEIDA PILE.
For the Government of the Union of Soviet Socialist Republics:

For the Government of the United States of America:
L. W. DOUGLAS.
Subject to ratification.
For the Government of the Federal People's Republic of Yugoslavia:
Dr. FRANC KOS.

Certified a true copy.
[FOREIGN OFFICE LONDON SEAL]
E. J. PASSANT
Librarian and Keeper of the Papers for the Secretary of State for Foreign Affairs.

The VICE PRESIDENT. The protocol is open to amendment. If there be no amendment to be proposed, the protocol will be reported to the Senate.

The protocol was reported to the Senate without amendment.

The VICE PRESIDENT. The resolution of ratification will be read.

The legislative clerk read as follows:

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of Executive F, Eighty-first Congress, first session, a protocol dated in London August 31, 1948, prolonging for 1 year after August 31, 1948, the international agreement regarding the regulation of production and marketing of sugar, signed at London May 6, 1937.

The VICE PRESIDENT. The question is on agreeing to the resolution of ratification. [Putting the question.] Two-thirds of the Senators present concurring therein, the resolution of ratification is agreed to, and the protocol is ratified.

The clerk will now proceed to state the nominations on the Executive Calendar.

POST OFFICE DEPARTMENT

The legislative clerk read the nomination of Vincent C. Burke, of Kentucky, to be Deputy Postmaster General.

The VICE PRESIDENT. Without objection, the nomination is confirmed.

UNITED STATES COAST GUARD

The legislative clerk proceeded to read sundry nominations in the Coast Guard.

Mr. PEPPER. I ask that the nominations be confirmed en bloc.

The VICE PRESIDENT. Without objection, the Coast Guard nominations are confirmed en bloc.

COAST AND GEODETIC SURVEY

The legislative clerk read the nomination of Kenneth T. Adams to be Assistant Director.

The VICE PRESIDENT. Without objection, the nomination is confirmed.

POSTMASTERS

The legislative clerk proceeded to read sundry nominations of postmasters.

The VICE PRESIDENT. Without objection, the postmaster nominations are confirmed en bloc, and, without objection, the President will be immediately notified of all confirmations of today.

That completes the Executive Calendar.

Mr. PEPPER. Mr. President, I wish to thank the able Senator from Oregon for his cooperation.

Mr. MORSE. I am glad to cooperate.

PROGRAM FOR THE EVENING

Mr. WHERRY. Mr. President, will the Senator from Oregon yield that I may ask a question of the acting majority leader?

Mr. MORSE. I yield.

Mr. WHERRY. I should like to ask the acting majority leader whether there is to be any more business transacted by the Senate tonight.

Mr. PEPPER. No. At the request of the majority leader, it is my purpose to move that when the Senate takes a recess, that it be until 12 o'clock noon tomorrow.

The VICE PRESIDENT. Does the Senator make that request now?

Mr. PEPPER. I do.

Mr. JOHNSTON of South Carolina. No bills are to be taken up?

Mr. PEPPER. There is to be no further business, except the address of the Senator from Oregon.

The VICE PRESIDENT. Without objection, it is ordered that when the Senate concludes its business today, it recess to meet at 12 o'clock noon tomorrow.

Mr. MORSE. Mr. President, may I have unanimous consent that the introduction of my speech earlier today will

be taken out of the place where it occurred and that the interruptions and the other business transacted by the Senate shall precede my entire speech?

The VICE PRESIDENT. The Senator from Oregon asks unanimous consent that his address be printed in continuity. Is there objection? The Chair hears none, and it is so ordered.

RESPONSIBILITY OF OFFICERS OF TRADE-UNIONS FOR PROTECTING FINANCIAL INTERESTS OF MEMBERS

Mr. MORSE. Mr. President, I wish to take a few minutes to address myself to the subject of the responsibility of the officers of trade-unions for protecting the financial interests of members of the union, insofar as honest administration of union funds is concerned.

I believe, Mr. President, that my record in the Senate of the United States speaks for itself, and that I have demonstrated that I am a friend of the legitimate rights of organized labor. I think my record speaks for itself in showing my belief in free trade-unionism. In fact, Mr. President, I believe that free trade-unionism is an inseparable part of the democratic processes in our country. I believe that if the time shall ever come when the reactionary forces in America who would like to destroy free trade-unionism shall prevail, we shall have lost freedom in America, because I do not think democracy can survive in any country where the right of workers to organize in free trade-unionism is denied to them by their government.

I point out a truth which has been pointed out by many others many times in the past, that in all totalitarian governments, one of the first citadels of freedom which dictators destroy is the system of free trade-unionism. Incidentally, I may say to the business forces of America that the record of totalitarian governments is perfectly clear, in that it shows that once free trade-unionism is destroyed, the next institution of freedom which is destroyed is a free-enterprise economy. In other words, a business system itself functioning primarily upon a corporate enterprise system cannot survive in a country in which the freedom of the workers to organize into free unions and bargain collectively with employers with respect to wages, hours, and conditions of employment, is denied to free workers by any government.

I say that by way of preface to the subject I am going to discuss this afternoon, Mr. President, because I think it is fitting and proper that the RECORD restate this conviction of mine that free trade-unionism is an inseparable part of our democratic system and our democratic society.

However, the rights of workers organized into free trade-unions carry with them definite responsibilities and obligations on their part, and particularly on the part of the officers of the unions. In my judgment, all friends of the free trade-union movement do not serve well the interests of free trade-unionism if they ever gloss over or fail to take the steps they can take to check any corruption, mismanagement or dishonesty on the part of trade-union officials in respect to the obligations of the union officials to their rank-and-file membership.

Mr. President, I have never hesitated in the past, any more than I am hesitating now, nor shall I hesitate in the future, to make very clear to the leaders of trade-unionism in this country that as a Member of the United States Senate I shall never countenance any dereliction of duty on the part of union officials toward the rights of the rank-and-file members. Thus, this afternoon I wish to direct the attention of the Senate for a few minutes to the general subject of the responsibility of the officials of trade-unions to protect the rights of the members of the unions in an honest administration of the financial affairs of the unions.

I wish to call attention to an editorial which appeared in an issue of the Trade Unionist under date of October 1, 1949. The Trade Unionist is the official organ of the Central Labor Union, Building Trades Council of the District of Columbia. I ask unanimous consent to have printed in the RECORD at this point the editorial caption of this trade-union paper setting forth the membership of the executive council of the American Federation of Labor, and also setting forth the name of the editor of the paper, and its place of publication, as those facts appear in the October 1 edition of the paper.

The VICE PRESIDENT. Is there objection?

There being no objection, the matter was ordered to be printed in the RECORD, as follows:

The Trades Unionist, published each Saturday in the interest of organized labor since 1896. John B. Colpoys, 1912–44, 720 Fifth Street NW.; Fred S. Walker, manager, phone National 3915.

Entered in the Post Office at Washington, D. C., as second-class mail matter.

Official organ of Central Labor Union, affiliated with A. F. of L., Building Trades Council, Allied Printing Trades Council, Union Label League.

The Trades Unionist will not be responsible for opinions of correspondents. If you do not get your paper, drop a postal to the editor, and he will see that you do. All matter intended for publication must be received not later than Wednesday noon to insure publication.

Executive council, American Federation of Labor: William Green, president; George Meany, secretary-treasurer; William L. Hutcheson, carpenters; Matthew Woll, photo-engravers; Joseph N. Weber, musicians; George M. Harrison, railway clerks; Daniel J. Tobin, teamsters; Harry C. Bates, bricklayers; W. D. Mahon, streetcar men; William C. Birthright, barbers; William C. Doherty, letter carriers; David Dubinsky, garment workers; Charles J. McGowan, boilermakers; Herman Winter, bakers; Daniel W. Tracy, electricians.

(At this point Mr. MORSE yielded to several Senators for the consideration of conference reports and the transaction of other business.)

Mr. MORSE. Mr. President, I wish to say to both the majority and minority leaders that I have been very happy in cooperating with them this afternoon in postponing my remarks until this hour, because the primary purpose of my address is merely to make a record of the points I wish to raise in regard to the subject of the address, which is the responsibility of union officials to protect the financial interests of the members of their unions in respect to the funds of the organizations.

As I had pointed out, I wish to call the attention of the Senate to what I consider to be a very fine editorial which appeared in the October 1 issue of the Trades Unionist, an A. F. of L. paper which is the official organ of the Central Labor Union, affiliated with the A. F. of L. Building Trades Council and the allied building trades councils of the District of Columbia area.

The title of the editorial is "Can It Happen Here?" The editorial reads as follows:

CAN IT HAPPEN HERE?

Anyone who criticizes the government in certain countries in Europe can expect the worst. Secret police will pick them up in the early hours of a morning and the next stop is a concentration camp.

Sometimes, if the offender is highly placed, there may even be a "trial," a trial of the kind held in those countries, whereby the accused is convicted beforehand; but the result is the same; concentration camp, or death.

In this country members of an organization or stockholders in a company or corporation have certain rights, and one of those rights is the privilege of knowing what is happening to the affairs of the outfit. Another right is the privilege of criticizing the officials. Here we can even ball out the officials of our Government; we can petition the President and Congress, and we can pillory them if they fail to respond to our wishes. This is the American way.

It appears, however, that members of a labor union cannot criticize its international union officials without retaliation and reprisal. The offense appears to be so heinous that such international officials can be mollified only by the most drastic punishment of the local union which offends.

A local union here in Washington is now being "tried" by international officials, and if found guilty will, according to report, have its charter lifted, which means the international officials will "take over" and operate the local, thus depriving local officials and members of control of their own union.

This has been done before by this international union under a former president, and perhaps he was justified because of pernicious activities of local officials. But for the offense with which this particular local union is charged, such a penalty approaches persecution and appears to be clearly an attempt to deprive union members of their God-given right of free speech—the right to holler when they believe something is wrong; the right to gripe when they are dissatisfied, whether justified or not.

Let's hope this affair will not reach the stage where some of us might think Stalin and his Politburo has branched out to America.

I submit, Mr. President, that the editorial I have just read, printed in the Trades Unionist, an A. F. of L. paper, very rightly calls attention to what I think is a very serious problem existing in certain sections of American trade unionism today, a policy on the part of some unions of to all intents and purposes taking away any effective use of free speech in criticising the officials of their international union, or resorting to due processes of law when they reach the conclusion that the officials of their union are guilty of gross misconduct in protecting the financial interests of the rank and file of the union, or other types

of gross conduct to which the law would be applicable if action were brought, except for a certain socalled union constitutional limitation placed upon the rank and file of the union.

I am very glad, Mr. President, that the Trades Unionist carried this editorial, because as I interpret the editorial it refers specifically to the International Printing Pressmen and Assistants' Union of North America in respect to the attitude which the international officers of that union are taking concerning the so-called Washington Local No. 1 branch of that union.

I want to discuss tonight, Mr. President, the financial policies of the International Printing Pressmen and Assistants' Union of North America on the basis of a record which has been made in respect to that union since some months ago I raised in the Senate Committee on Labor and Public Welfare the question as to whether or not a subcommittee of that committee should be appointed to make inquiry into allegations which members of the committee and I in particular had received that the international officers of that union—at least some past officers of that union—had been guilty of a misuse, and in fact a misappropriation of the funds of that union which, after all, belonged to the rank and file members.

Mr. President, when I raised that point in the meeting of the Senate Committee on Labor and Public Welfare one of my colleagues on the committee said that he had great admiration for the courage of the Senator from Oregon in making the suggestion that we proceed with an inquiry into the financial affairs of this union. I laughed, and I responded to him by saying, "I do not know what courage it takes to raise a question as to whether or not the allegations concerning the misuse and misappropriation and embezzlement of funds belonging to the rank-and-file members of the Pressmen's Union are true." I asked him "What courage does it take to raise a question as to whether we should proceed with an investigation to find whether or not those funds had been misused by the officers of this union?"

This member of the Senate committee then went on to discuss his background of knowledge of some of the financial history of this union. When he finished I said, "The Senator satisfies me that by all means we ought to proceed to make inquiry as to whether or not the individual members of this union have been properly protected in the past by their international officers in respect to their funds."

It was agreed, Mr. President, that I should make further inquiry into the matter and report back to the committee at a later time.

But in the meantime, before I was ready to make a report, the House Committee on Education and Labor appointed a subcommittee which proceeded to conduct some investigations into union practices, and among those investigations was an inquiry into the financial practices of the Pressmen's Union and the charges that the funds of the Pressmen's Union were being misused, or had been misused. In view of that formal inquiry having been started, Mr. President, I took the position in the Committee on Labor and Public Welfare, and so advised the chairman of the committee, the Senator from Utah [Mr. THOMAS], that pending the outcome of the House committee inquiry I would postpone asking for further action on my suggestion that the Senate committee look into the same problem.

The House inquiry, Mr. President, was conducted by a subcommittee of the House Committee on Education and Labor, headed by Representative ANDREW JACOBS of the Eleventh District of Indiana.

I had never met Mr. JACOBS until this year. I had never talked with him until a few months ago. But I wish to say for the RECORD this evening that few men have impressed me more favorably in this session of Congress than the Representative from the Eleventh District of Indiana. He is a lawyer. He is a man with a fine labor-law background and practice. He is a man who can stand on his record as a friend of the legitimate rights of labor; but he is a man who recognizes that the friends of labor fail labor if they do not protest practices on the part of labor which are not in the interest of labor, and which violate the true idealism of free unionism in this country. Representative JACOBS is such a man. He has refused to permit anyone to deter him in his investigation, as chairman of the House subcommittee, into union practices which are bringing discredit upon the house of labor.

Representative JACOBS has had somewhat the same experience as has the junior Senator from Oregon, in that he has been attacked by those in the labor movement who are guilty of performing a disservice to the American labor movement when they try to get protection for either a continuation of such practices or a hush-hushing of any investigation dealing with practices which violate the best traditions and the legitimate rights of American trade unionism.

Under date of October 4, 1949, I received the following letter from Representative JACOBS:

HOUSE OF REPRESENTATIVES,
Washington, D. C., October 4, 1949.

Hon. WAYNE MORSE,
United States Senate,
Washington, D. C.

DEAR SENATOR MORSE: I am transmitting herewith a copy of my statement, which was made in the record of my subcommittee hearings on August 1, 1949. At this hearing it was disclosed that George Googe and other international officers had threatened to penalize Pressmen's Local, No. 1, here in Washington, because they had objected to the manner in which international affairs had been managed, or rather mismanaged.

I also enclose a copy of my letter to the Honorable JOHN LESINSKI, chairman of the House Committee on Education and Labor, in response to his order dissolving the subcommittee.

Most sincerely,

ANDREW JACOBS.

It is very interesting, Mr. President, that while the subcommittee was in the process of making its investigation the chairman of the House Labor Committee dissolved the subcommittee. The first paragraph of Mr. JACOBS' letter to Representative LESINSKI under date of September 28, 1949, is very interesting. It reads as follows:

DEAR MR. CHAIRMAN: I am in receipt of and acknowledge your letter of August 31, 1949, which purports to dissolve the Subcommittee on Union Democracy. I had heard, but disbelieved, you were intending this action. George L. Googe, vice president of International Printing Pressmen and Assistants Union of North America, had boasted in my district that this subcommittee would soon be emasculated.

This occurred a week before you took action in the matter.

The next paragraph reads as follows:

That George L. Googe was enabled to enter my district with this advance information is utterly amazing in the light of circumstances surrounding Mr. Googe. As you known, Mr. Googe, as vice president of the Pressmen's Union, admitted before this committee, of which I was, or perhaps am, chairman, that he moved the 1948 convention of the Pressmen's Union to pay the defaulted income tax for George L. Berry, deceased, the president of that international. The record otherwise disclosed that George L. Berry had "chain smoked" his misappropriations from the international treasury over a period of 30 years and that his affluence necessitating the payment of this defaulted tax bill resulted from such misappropriations and further actually resulted in his being convicted of tax evasion.

I ask unanimous consent to have printed in the RECORD at this point as a part of my remarks the entire letter from Representative JACOBS to Representative LESINSKI.

There being no objection the letter was ordered to be printed in the RECORD, as follows:

SEPTEMBER 28, 1949.

Hon. JOHN LESINSKI,
Chairman, Committee on Education and Labor, House of Representatives, Washington, D. C.

DEAR MR. CHAIRMAN: I am in receipt of and acknowledge your letter of August 31, 1949, which purports to dissolve the Subcommittee on Union Democracy. I had heard, but disbelieved, you were intending this action. George L. Googe, vice president of International Printing Pressmen and Assistants Union of North America, had boasted in my district that this subcommittee would soon be emasculated.

This occurred a week before you took action in the matter.

That George L. Googe was enabled to enter my district with this advance information is utterly amazing in the light of circumstances surrounding Mr. Googe. As you know, Mr. Googe, as vice president of the pressmen's union, admitted before this committee, of which I was, or perhaps am, chairman, that he moved the 1948 convention of the pressmen's union to pay the defaulted income tax for George L. Berry, deceased, the president of that international. The record otherwise disclosed that George L. Berry had "chain smoked" his misappropriations from the international treasury over a period of 30 years and that his affluence necessitating the payment of this defaulted tax bill resulted from such misappropriations and further actually resulted in his being convicted of tax evasion.

Another amazing circumstance is that when the legislative reporter returned a typewritten manuscript of Mr. Googe's testimony, these admissions were omitted. This matter was duly and seasonably referred to the Department of Justice by the undersigned.

The next amazing circumstance was that because certain locals and individual members of the pressmen's union took a dim view of the conduct of Mr. Googe and his associates in falsely reporting that $422,000 misappropriated by Mr. Berry had been repaid, only to have this claim proven false by our subcommittee, and insisted upon the recovery of this money, Mr. Googe and his associates threatened to revoke the charters of these complaining locals.

Inasmuch as our subcommittee felt that it was its duty to bring to the attention of the full committee and the House such undemocratic practices for illustrative legislative purposes, I, with the authority of the members serving under my chairmanship, subpenaed the records disclosing such threats. I was, of course, disappointed, Mr. Chairman, that you saw fit to criticize me in full committee for issuing this subpena and particularly so since you did not take it up with me in advance.

Despite that criticism, you will recall that this subcommittee had a vote of confidence, better than 2 to 1, when, over your opposition, the committee voted out a resolution to provide us with a subcommittee staff.

Despite that amazing chain of circumstances, I still did not believe on August 25, when so informed, that George Googe could be in possession of such knowledge regarding the impending dissolution of this subcommittee, which was withheld from me as chairman of this subcommittee and as an elected representative of one of the most populous districts in the United States.

However, it is quite apparent that a week later you confirmed the knowledge of this individual, who lent his cooperation to the concealment of past misappropriations from the fund of which he was a moral trustee and to the further misappropriation of almost $27,000 to pay the prime defaulter's income tax on his ill-gotten gains.

You will understand, sir, that I have made no charges; rather I have stated the cold, unvarnished facts of the case. However, your action has posed some rather perplexing questions. First of all, you requested a report from the subcommittee. Perhaps in the years that you have served in Congress you have acquired knowledge with which I am not blessed and hence can inform me as to how a committee that is dissolved can function, even to the point of making a report.

You stated to me verbally that the committee had no further work to do. The facts of the case are that notwithstanding the vast volume of correspondence which came to this subcommittee, you never furnished me with clerical help with which to answer it. My office staff works long hours and diligently upon the work coming in from my own district. Accordingly, I needed help with which to do this work and at first you promised to assist in getting such help, but later opposed the appropriation, but were defeated by your committee better than two to one. Much of this mail remains unanswered and just today I had an inquiry from one party who wrote us and desires to have some documents returned. The question is can I act in the capacity of chairman to return the documents, and, inasmuch as they were addressed to me as chairman, would you expect me to delegate the authority to you to handle this correspondence?

I have come to no definite conclusion in regard to these matters, nor have I been able to ascertain where you acquired the authority to dissolve this or any other subcommittee. It is doubtful if you have authority to establish such subcommittees as were established, but it is obvious that they were ratified, particularly mine on July 29, when an appropriation for a staff was approved by the membership of the full committee.

The full committee never gave you any authority to dissolve and destroy all of the processes of the House Committee on Education and Labor. The House Committee on Education and Labor is not your committee, your institution, nor a puppet organization to which you hold a fee simple title. It is a part of the processes of the Congress of the United States and the membership of that committee is vested with the final authority as to what action shall be taken.

Accordingly, this letter will advise you that I am not at this time acquiescing in the dissolution of this subcommittee. If you will call a meeting of the full committee, I will gladly abide the majority decision. If you do not do so forthwith upon the receipt of this letter, I will convene the members of this subcommittee and I will then be guided by their decision as to whether or not the subcommittee should accept your unilateral and unconfirmed action in the matter. In the meantime, it is my personal request to you that the mail received by this subcommittee which has been duly and legally filed in the offices of the full committee, be not disturbed nor handled by anyone except under my direction. Since the mail was directed to me, I have some interest in how it is to be handled. But as to that matter, as in all things, I am willing to abide the democratic decision of my colleagues on the committee.

I request that you inform me of your views upon the several matters mentioned herein. I further inform you that I will not consider this letter as answered except in writing.

I remain,

Very truly yours,

ANDREW JACOBS.

Mr. MORSE. I also ask unanimous consent to have printed in the RECORD at this point as a part of my remarks a statement made by Representative ANDREW JACOBS before the subcommittee on the subject of union democracy on August 1, 1949.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT OF ANDREW JACOBS (DEMOCRAT), ELEVENTH DISTRICT, INDIANA, BEFORE SUBCOMMITTEE ON UNION DEMOCRACY AUGUST 1, 1949

Some weeks ago we had deemed the inquiry into the Pressmen's Union completed; and it was so announced. Accordingly, an explanation is due as to why its officials have been recalled.

First, I think it is clear that this inquiry disclosed misuse of this union's funds, particularly by two of its officials now deceased. These incidents extended over many years. In the course of those years, the president, George L. Berry, commingled his financial affairs with those of the union. A considerably more detailed investigation than is the responsibility of this subcommittee would be required to untangle and render a true and accurate accounting of those affairs.

Primarily, this subcommittee is concerned only with determining whether this union membership was, or is being coerced when it attempts or attempted to govern its union. Protests by citizens or members of an organization are a part of the force by which the governed control their government. If protests can be beaten down by economic coercion, then there is no brake on misconduct. Economic coercion is a powerful weapon.

For example, if a union hierarchy can capriciously cancel the union status of protestants there will generally be no protesters. This is no different than a State political machine which can, on any day, raise or reduce the salaries of those public officials who wield local political power.

Wealth is power, and to the worker, political or private, his salary or wages is generally his only wealth. Whoever controls his income, controls him. This is simple economic a, b, c's.

The necessity for workers to organize is admitted by all enlightened persons. Workers want and need their unions, but they want them to be honest, decent, and democratic, as indeed most of them are. A man who works is usually honest. If he wasn't, he wouldn't work. He wants his union officials to be honest. If they aren't, they will waste his union resources and perhaps even sell him out to his employer at the bargaining table.

Now the evidence disclosed misconduct upon the part of the deceased president of this union. It also convinced me that economic compulsion was practiced by him to beat down protests against his misconduct. This was spread in this record to illustrate the necessity for remedial legislation.

The primary duty and responsibility to seek any recovery of assets from the estate of the union's late president rests upon the officers of the international. But it appears that certain subordinate bodies, including local 1, entertain doubt as to whether or not the officials are pursuing the matter in good faith. In this regard I express no opinion, but it is noteworthy that the report of these international officers to the subordinate bodies stated that the sum of $422,000 had been repaid by Mr. Berry's playing card company; whereas they admitted before us that such was not true. Furthermore, this board, composed, in the main, or the same men apparently approved of the forgiveness of $86,000 of debt from the playing card company on the union. I mention this to indicate that local 1 is not wholly unwarranted in its apprehension.

Under the law, if the officers charged with the responsibility of protecting an organization's interests fail to so do in good faith, members may take action by showing the proper court such lack of action and good faith. Whether this apprehension is or is not well founded is for such court, not this subcommittee to say. But the subcommittee is gravely concerned with any economic compulsion to prevent any members from procuring a judicial determination of such good faith or lack thereof.

It is just such compulsion as that that this subcommittee conceives to be its duty to examine and design legislation to remedy. Therefore, when it was brought to my notice that subsequent to our last hearings, some communications between these international officers and local members might contain threats of revocation of local 1's charter, which, if true, is indeed economic compulsion, I felt that such facts, whatever they are should be spread upon this record for our information and guidance in the discharge of our duties. I therefore called them back duces tecum with those communications.

I feel it would be proper to further state that I believe I am aware of the concern of the average worker for his union. I am mindful that under existing law, he voted almost unanimously in favor of union security; the industrial closed shop. In that regard, I agree with him. He needs and deserves that protection. But I am also mindful that existing law does not meet this problem. The present approach is negative; it offers the worker—in fact almost invites him to abandon his union to escape any such abuses as are here disclosed. But it gives the worker no protection in his efforts to remain in his union and correct such abuses.

It is my considered judgment that the latter approach is the correct one, and in failing to so provide, Congress has missed one of the good points in labor legislation.

Let me say that this statement is not partisan. I vainly recommended this approach to Members of the Eightieth, but just as vainly to the Seventy-ninth and Eighty-first Congresses, they being of my own political faith. The reasons for rejection or nonconsideration of this approach lie buried in the minds of other men. I cannot with certainty plumb the depth of their thinking. But I do know that if there was less political

ping-pong played there would be more time available to consider these questions.

Again, there are those who claim it is political suicide to advocate such a measure and to investigate, as we are, to demonstrate the necessity for such is to detonate a political atom bomb. I'm too stupid politically to know the answer to this claim. I just know that I have faith in the American people; that I think the American worker wants a union and an honest one—and that as the representative of all the people, it is my duty to help him keep his honest unions and correct the dishonest ones; not destroy them.

I believe also in the intelligence of the union member, and in his ability to discern what we are trying to do as distinguished from devices designed to destroy his unions. But it is sometimes disheartening to try to carry the load alone with just my good associates on the subcommittee.

The legislative process works as a three-horse team. On three occasions I have vainly endeavored to interest the men high in the executive branch of Government in an objective and well-considered approach to these problems. The so-called upper House of this Congress, exercising its right to free and unlimited coinage of words, finds no time to even consider this problem. Does not the Senate have as much responsibility as we? Is not a problem posed for at least some consideration when working men have evidenced their need and desire for unions, and they receive no protection in trying to make their unions good, honest, and responsive to their will?

I wonder if it ever occurred to the Senate Labor Committee that had it used such a democratic approach as is suggested here that perhaps many of the unwarranted restrictions in existing law might have been repealed? Perhaps not. But I respectfully suggest to it and the Executive that a mite of objective thinking would go a long, long way toward properly solving some of our difficulties.

At least the Senate Labor Committee wouldn't have to dodge every time you said "BOB TAFT."

Mr. MORSE. Mr. President, one has only to read this statement to have ample proof of the soundness of the personal commendation I uttered a few minutes ago in respect to Representative JACOBS. Representative JACOBS and his subcommittee have performed a great service to American trade-unionism by bringing to light the financial manipulations of the international officers of the Pressmen's Union.

I wish to make perfectly clear here and now that I am satisfied that the misappropriation of funds by Mr. Berry, former president of this union and former Member of the United States Senate, in no way typifies the financial practices of American Federation of Labor unions. I am satisfied that the international officers of the Pressmen's Union who have been parties to Berry's financial manipulations, which in my judgment have constituted embezzlement, are not representative of American Federation of Labor officials generally.

A word about Mr. Googe. From what Representative JACOBS says, he not only apparently made the statements which he made in Indiana, but down in Tennessee at the so-called Pressmen's Home, Mr. Louis Lopez, who at the time was legislative representative for the Pressmen's Union, and who had been called down there by the international officers, along with officers of Washington Local No. 1, was told by Mr. Googe at the so-called trial which was given those officers to determine whether or not their conduct justified disciplinary action on the part of the international officers, as I have reported to the Senate Committee on Labor and Public Welfare, that he had taken care of MORSE. Googe named certain Democratic Senators and said in the presence of Lopez that a Democratic Senator had called the Democratic members of the Senate Committee on Labor and Public Welfare and had received from them assurance that MORSE would be blocked in any attempt to put through the Senate Committee on Labor and Public Welfare his proposed investigation of the Pressmen's Union.

Mr. DOUGLAS. Mr. President, will the Senator yield?

Mr. MORSE. Not at this point. I will yield in a moment. I wish to complete my statement.

That is the statement which Mr. Lopez reported was made by Mr. Googe in Tennessee at the time that the officers of the local union and Mr. Lopez were called before the international officers for a so-called trial. I reported that to the Senate Committee on Labor and Public Welfare, as it was my duty to report it. I wish to say for the RECORD that I am completely satisfied, from the conversations I had with my colleagues on the committee at the time, that there is no basis whatsoever in fact for Googe's reported statement in Tennessee.

It is that type of statement which satisfies me as to the complete unreliability of Mr. Googe, just as I am satisfied that another incident involving another official of this union has no basis in fact; I refer to the counsel of the Pressmen's Union, a man by the name of John S. McLellan. He was reported to have called from the Hamilton Hotel, in this city, and to have said that there was in the room with him at that time a very prominent Federal judge—whom he named—and to have said, "I want you to know that if further steps are taken in regard to the investigation of this union, this Federal judge, who is right here, is going to see that a stop is put to it," and he is said to have purported to say over the telephone, "Isn't that so, Judge?" And then he is said to have purported to relate the judge's answer, although no judge was put on the telephone. I wish to say that any members of the officialdom of the Pressmen's Union, who use tactics such as that are performing a great disservice not only to the rank and file members of the union but to all rank and file members of organized labor.

Under date of July 27, 1949, after I had raised this question in the Senate Committee on Labor and Public Welfare in regard to whether we should go into an inquiry concerning the handling of the funds of this union, I received the following letter from Mr. Googe:

DEAR SENATOR MORSE: I have endeavored to reach you a number of times since the Louie Lopez dinner at the Mayflower Hotel but have not been successful. Mr. Lopez informed me some time ago that you have informed him that the matter of your motion for a special subcommittee of the Senate Labor, Education, and Public Welfare Committee would not be taken up by you.

Mr. President, I digress to say that is a false statement on the part of Mr. Googe; I say that, based upon a statement made to me by Mr. Lopez, in which Mr. Lopez told me he never made any such statement to Mr. Googe.

Of course, had Mr. Lopez ever made any such statement to Mr. Googe, his statement would have been false, because at no time has the Senator from Oregon ever said he would not proceed with the investigation or with his request for an investigation of the financial affairs of the Pressmen's Union; but in view of the fact that the House subcommittee was proceeding with an investigation, it seemed to the Senator from Oregon that it was only courteous to wait to see whether or not the matter would be adequately handled on the House side; and if it was, then no good purpose could be served by rethreshing the straw on the Senate side. Those of my colleagues on the Committee on Labor and Public Welfare who have ever talked to me about this matter privately, know that at no time did the junior Senator from Oregon ever intend to drop his proposal to find out what the facts are concerning the financial affairs of the Pressmen's Union.

I yield now to the Senator from Illinois.

Mr. DOUGLAS. Mr. President, the Senator from Oregon is completely correct when he says he never proposed to drop this investigation. The reason why the Senate committee did not act was simply that a comparable investigation was started at the House end of the Capitol.

But I am sure the Senator from Oregon will also agree that the same motive which animated him also animated the Democratic members of the Senate Committee on Labor and Public Welfare.

Mr. MORSE. I wish to make that perfectly clear, Mr. President. Not only that; but now that the Senator from Illinois has raised that point, I think it is perfectly proper for me to amplify a little on the discussion which took place in the Senate Committee on Labor and Public Welfare. We were in executive session. Several Democratic members of that committee—although I shall not name them—made very clear to the Senator from Oregon that a service would be rendered if the facts in respect to the financial affairs of this union were brought to public light. One of the members of that committee dwelt at some length upon some of the problems which existed while he was in the Senate, as a Member of this body, in respect to a former international president of the union, now deceased, Mr. Berry; and that member of our committee went on to say that while Mr. Berry was in this body, questions were constantly being raised in conversation around the Senate, in regard to the financial practices of that union under the leadership of Mr. Berry. During the course of that discussion some of the members on the Democratic side of the committee brought to light a great many facts concerning the history of that union about which the Senator from Oregon was not aware. As a result of that discussion—participated in, I think it would be proper to say, at that stage

of our meeting, Mr. President, and led by some Democratic members of our committee—the junior Senator from Oregon was even more convinced that the public interest demanded bringing the spotlight and searchlight of inquiry to bear upon the financial manipulations of the union leadership.

I want the Senator from Illinois and the Senator from Florida [Mr. PEPPER] to know—and I would say the same if every other Democratic member of that committee were on the floor at this time—that I deeply appreciate the attitude they took at that committee meeting in regard to the position of the junior Senator from Oregon.

I mention this purported conversation with a Democratic Senator, which Mr. Googe claimed took place, because I was incensed at the injustice that that purported conversation did to my Democratic colleagues on the Senate Committee on Labor and Public Welfare—and, not only that, but the great injustice it did to the Democratic Senator who, so Mr. Googe reported to Mr. Lopez, was supposed to have called up the Democratic members of the Senate Committee on Labor and Public Welfare.

Mr. President, I am equally incensed at what I think was the malicious injustice done by the counsel of that union in his conversation, which I have recited, in respect to the incident allegedly involving a Federal judge.

Now I proceed with Mr. Googe's letter of July 27:

On yesterday, in your office, Mr. Peterson informed me that you were still considering the matter of bringing up your motion. I was astounded at this information because I thought the Jacobs committee hearing in the House had smeared our organization to the satisfaction of our opponents.

Mr. President, I digress to say that I did not dignify Mr. Googe's letter with an answer, because of the sentence I have just read. From that sentence, it is perfectly obvious that Mr. Googe was insinuating that the proposal I was making for an inquiry into the financial transactions of the pressmen's union constituted a smear. From the date of the receipt of that insulting letter, Mr. President, I have paid no attention to Mr. Googe, as far as concerns dignifying any attempt on his part to get a response from me to any communication from him or to any attempt to confer with me personally. Mr. President, I am satisfied that his record in the handling of this matter is a distinct disservice to the rank and file membership of the pressmen's union.

His letter proceeds as follows:

An investigation by Senate subcommittee will be practically a repetition of what we have gone through already.

Mr. JACOBS, after adjourning the pressmen's union hearing, sine die, on July 6 has changed his mind and had a subpena served upon me today to appear before his committee again, August 1. I would appreciate your letting me know whether you have decided to drop the matter in the Senate committee or whether you propose to push your motion for a Senate investigation. I can be reached at my home in Atlanta, Ga., tomorrow. I will return to the Hamilton Hotel in Washington next Friday morning where I will be through Tuesday, August 2, and would deeply appreciate your advice.

With kind personal regards, I am,

Respectfully,

GEORGE L. GOOGE,
Vice President.

On the basis of such information as I have in regard to Mr. Googe's participation in the attempted discipline of Washington Local No. 1, as far as I am concerned he seeks to rationalize and excuse what I think constitutes an inexcusable misuse of union moneys belonging to the rank and file of that union, and what Mr. Googe ought to be doing, along with the other officers of that union, is to take every possible legal recourse to protect the funds of that union in the interests of the owners of those funds, the members.

Furthermore, he should be showing the leadership that a labor leader ought to manifest, by urging such reforms within the constitution of the union as will really bring to the members of the union, the democratic processes and the democratic safeguards that ought to be considered their basic rights.

Mr. President, I now come to a report that was sent to the members of the Washington Printing Pressmen's Union No. 1, by the officers of the pressmen's union:

DEAR SIRS AND BROTHERS: The following official communication, which is self-explanatory, has been addressed to the officials of your local union.

"Washington Printing Pressmen's Union No. 1,

"Mr. James S. Judge, President,

"Mr. Edward P. Best, Secretary."

Giving the address—

"GENTLEMEN: Please take notice that on September 21, 1949, at 10 o'clock in the forenoon, at the Administration Building of the International Printing Pressmen's and Assistants' Union of North America, Pressmen's Home, Tenn., a hearing will be held before the board of directors of the International Pressmen's and Assistants' Union of North America, at which time you are directed to appear and show what cause, if any you have, why the charter of the Washington Printing Pressmen's Union No. 1 should not be revoked, suspended, or other disciplinary action taken in accordance with the constitution and laws of the International Printing Pressmen's and Assistants' Union of North America, as revised and adopted in September 1948, for charged violations of such constitution and laws as hereinafter specified.

"Please take further notice that the board of directors of the International Printing Pressmen's and Assistants' Union of North America, acting under the authority vested in them by the constitution and laws of the International Printing Pressmen's and Assistants' Union of North America, have on information and belief preferred charges against Washington's Printing Pressmen's Union No. 1, of violating the following sections of the constitution and laws of the International Printing Pressmen's and Assistants' Union of North America—

I want particularly to call the Senate's attention to these articles of the constitution:

"Article 22, section 9: Recourse to courts of law. If any subordinate union, or any member of a subordinate union, shall disregard any provision of the constitution or laws of the international union pertaining to appeals, initiative, referendum, or recall, and shall seek adjustment or settlement of its or his claim, conditions, or controversy by or through means of any suit, action, or proceeding of any kind or character whatsoever, in any court of law or equity, either Federal, Provincial, State, county, or municipality, without having first exhausted its or his remedies as provided for in and by said constitution and laws of the international union, he shall thereby be automatically expelled from the international union, without notice, and shall thereby forfeit any and all rights and benefits in the international union."

Mr. President, I digress from the letter for a moment to make a few comments on the constitutional provisions of the pressmen's union. There are two sides, Mr. President, to this constitutional provision. Historically our American trade-unions originated and developed pretty much on the theory that they were lodges, fraternities, or organized brotherhoods, organized by men of good will and interested in mutual economic problems in the belief free workers ought to have the right to organize and bargain collectively for the improvement of their wages, hours, and conditions of employment. Much of their business was transacted in strict executive session, within the lodge, as we say, and of course any organization has the right to expect from its membership loyalty to the objectives of the organization. In the early days, a great many trade-union constitutions included articles somewhat similar to article 22 of the pressmen's union constitution. In those days, unions were confronted with the great problem of employer spies and stooges and professional dissenters, who worked their way into the union for the purpose of weakening it and causing the officials of the union a great deal of trouble, creating dissension and seeking to serve the employer by means of such underhanded, deceitful, spying techniques.

Of course, Mr. President, in the days when the trade-unions were weak, in the days when officials of trade-unions had to be constantly on guard against such nefarious practices on the part of employers working through their labor spies and stooges, it was understandable that a trade-union would seek to protect itself from such disturbers of the best interests of the union, from men who had gotten in, under false pretenses, and were attempting by devious methods to break down the morale and the organization of the unions; I understand that.

In those days unions were relatively small compared with the far-flung union organization which now exists in America. They were compact little units of democracy working in accordance with democratic processes, and the membership of the union was usually present at the meetings in large numbers, and there was illustrated in those union meetings a good old American town-hall direct-democracy system.

We must face the realities which confront us today, Mr. President. The fact is that many American unions are very large institutions, both in terms of membership, in terms of the number of local unions which form the international, and in terms of the financial assets of the

union. I suppose it is true that many of our international unions, measured in terms of financial assets, economic power and influence, are much more powerful than are many substantial American corporations. I mean no unfavorable comparison, Mr. President, when I say for descriptive purposes that it is true that American unionism has taken on a great many of the characteristics of big business enterprise; and necessarily and desirably so, Mr. President, because our economy has changed remarkably since the early days of the formation of our small unions. Take the great carpenters' union, and other building trades unions—in fact, we can take any one of the major AFL unions or the major CIO unions, and we are dealing with great organizations of labor which have not only tremendous responsibilities to their rank-and-file membership, but tremendous responsibilities to the Nation, also. In fact, if I were to name the great educational institutions of America, I should not only name Harvard, Columbia, Yale, Princeton, Michigan, Chicago, Northwestern, and all the other great formal institutions of education in this country, but I should name, Mr. President, the great trade-unions of America. I think of the job which David Dubinsky has done with his garment workers not only in educating the members in regard to problems of collective bargaining but in developing an organization which has served as a great educational institution in democracy. I should have to put his union alongside outstanding educational institutions if I had to list the educational forces in America which make the belief and conviction of the American people and the strength of democratic processes secure for the future of my country. I should name not only Dubinsky's union—I use it only as an example—but I should say the same of every major AFL union, of every major CIO union, such as the great steel workers union. Yes, Mr. President, I would say it also of the United Mine Workers of America, irrespective of differences arising in regard to certain policies and points of view of the leader of that organization. We cannot go into the coal towns of America without recognizing, and one should appreciate the fact, that the United Mine Workers of America has, after all, brought an understanding of democratic processes and principles to the coal miners and their families over the years, has performed a magnificent service in lifting the standard of living of the members of that union, and also in enlightening them to a better understanding of the great benefits they are privileged to enjoy and to share in a free society in which a free trade-union can exist and prosper.

So, Mr. President, when I talk about article 22 of the constitution of the pressmen's union, I mean to make perfectly clear that I understand its historical origins and that I recognize the need for a provision in every union constitution that will protect the union from planted stooges and from employer spies who have worked their way into the union for the purpose of stirring up dissension. But I should also want to make clear, Mr. President, that the economic changes which have taken place in America since the early days of unionism, the bigness of unions just as the bigness of corporations, make it imperative that unions take the steps necessary to revise constitutions in order to guarantee to the membership democratic processes that will protect them against international officers who develop a great power over the union, almost dictatorial in nature, and, in the use of that power, place themselves in a position in which they can do great injury to the financial interests of the members of the union through a misappropriation or misuse, or even embezzlement, of the funds of the union, as I think was the case in the pressmen's union under the leadership of Mr. Berry.

Therefore, Mr. President, I believe the time has come when American trade-union constitutions, with such a provision as article 22 of the pressmen's union in them, should be so modified as to provide a review of and a check upon the officers of the union by a reasonable judicial process which will permit the courts charged with administering the law of this land to pass judgment on whether the procedures of the union really in effect give to the membership of the union or the protestors in the membership of the union, who are acting in good faith, adequate protection of their rights.

I say that with special reference to the pressmen's union, because as this case unfolds we are going to see that article 22 has served as an effective barrier blocking the membership of the union from taking those steps at a time when taking them would have been most effective in protecting their rights. The cumbersome machinery of this union guarantees the passage of so much time from the time the members in the first instance feel that their financial interests are not being adequately protected until all the processes of the machinery of the union can be gone through, that article 22, which on its face seems plausible enough, really in practice amounts to a denial of adequate protection of the rights of the members of the union.

Let me note again what it says. They shall not take any action or proceeding of any kind or character whatsoever, in any court of law or equity, either Federal, Provincial, State, county, or municipality, without having first exhausted its or his remedies as provided for in and by said constitution and laws of the international union, shall thereby be automatically expelled from the international union, without notice, and shall thereby forfeit any and all rights and benefits in the international union.

If they violate that section, what is the penalty? They are automatically expelled. Therefore what is the power of this union over its membership under this article? It is the power of determining their economic livelihood. We are dealing here for the most part with what we call a closed-shop union. If one of these pressmen is expelled from the union, in most instances his best form of making an economic living is taken away from him.

Mr. President, I very well know that the suggestion I now make will not be acceptable, at least at first, to a great many officials in all affiliations of American trade-unions—CIO, A. F. of L., brotherhoods, and independents. The question I must answer in respect to this problem is, What ought to be done in promoting sound public policy? So I raise the question whether or not in this modern day, with American trade-unions having all the guaranties and protections which are theirs under the law, it is good public policy to continue a prohibition in a union constitution under which a free American citizen, a member of that union, who in good faith, is satisfied that the international officers are guilty of gross misconduct in the handling of the financial affairs of that union, and after a reasonable attempt to secure protection of his rights and interests within the union within a reasonable period of time, can be denied the right to go to the courts and in accordance with due process of law, have his financial interests protected, or, if he does go to court, be confronted with the cold, hard fact that he will be kicked out of the union and from then on be denied the right to seek his economic livelihood in that one branch of labor endeavor in which he is best qualified, and for which he has trained and prepared himself over the years.

I question whether today, with union organization what it has become in America, it is good and sound public policy to permit American unions to exercise such tremendous power over the economic livelihood of fellow citizens as is allowed by the provisions of article 22 of this union.

The facts in this case show that the procedures of the union itself, its practices in regard to conventions, its procedures for checking international business, make it possible for international officers who do not want to follow democratic processes to promote delays in hearing grievances to such a point that the membership in fact has no protection under article 22. It takes years to get through the procedure of the union up to the final international convention, which may be held as infrequently as once every 4 or 5 or 10 years.

Mr. President, I think democratic processes are vital to the members of American unions. I think a system of government by law is essential to protecting freedom and liberty of every American citizen, those who belong to unions and those who do not. It is so essential that we protect our system from any form of tyranny that I am willing to say, as a defender of free trade-unionism, that the guaranties of due process of law should prevail for the benefit of members of the union, too, and that whenever a constitutional provision of a union tends to place a limit upon the exercise of a citizen's right to due process of law, then that provision of that union's constitution ought to be modified.

Thus I would suggest, Mr. President, in discussing this particular section of

the pressmen's constitution, that not only this union but other unions as well, in order to demonstrate to the American people that there is no basis in fact for a widespread criticism that American unions do not follow democratic processes, should adopt a procedure by which, in the case of the type of the grievance which has been complained about in respect to the handling of the pressmen's union funds, an appeal can be made to a judicial officer outside the union for a review of the question as to whether or not the procedures of the union are adequate under the facts and circumstances of the individual case to protect the complainant who charges that his financial interest in the funds of the union or his interest in any other affair of the union are being violated and transgressed by the officers of the union.

I believe, Mr. President, that a procedure worked out on the basis of the principle I have just enunciated would be sound public relations on the part of American unions, because it would be an effective answer to the general charge and criticism that we so frequently hear and which my experience in regard to labor relations in this country shows by and large is an unfair criticism—but nevertheless it prevails—that the rank and file member, as far as the practicalities are concerned, has no adequate protection of his democratic rights within most trade-unions.

Such an article as article XXII in the pressmen's union's constitution which I have read, can be abused, and I am satisfied that it has been abused in this union with respect to the prosecution of complaints concerning the misuse of the funds of the union.

I continue with the letter of September 8 sent out by the officers of the International Printing Pressmen and Assistants' Union of North America to the members of the Washington local:

Article XXX, section 7, which reads in part as follows:

"Article XXX, section 7. Obligation. Subordinate unions shall adopt the following obligation:

"I, _____ solemnly and sincerely pledge my honor that I will not reveal any business or proceedings of any meeting of this union, or any other subordinate union to which I may hereafter be attached, except to those whom I know to be members in good standing; and that I will, without equivocation or evasion, abide by the constitution and laws and the adopted scale of prices.

"I furthermore promise that I will not apply to the courts for redress in any manner concerning or affecting the organization without first appealing to the officers, board of directors and the convention of the International Printing Pressmen's and Assistants' Union of North America, as provided by the constitution and laws thereof.

"Article XXX, section 45. Appeals for financial aid. No appeal for financial aid shall be made by any one subordinate union to any other subordinate union until approval thereof by the board of directors shall have been first obtained.

"Article XXX, section 59. False charges. Any member of a subordinate union who does any act or thing, or makes any statement, that is, or may be, injurious to, or that reflects on the honesty or integrity of, any member, or makes any charge or claim that any member or officer is or has been using the funds or properties of the international union, or of a subordinate union, or appropriating the same to his own use, and does not produce proof to sustain such charges or claim, shall be fined not more than $200, or suspended, or expelled, as the board of directors may determine."

Sincerely and fraternally—

Signed by the board of directors of the International Printing Pressmen and Assistants' Union of North America.

Mr. President, I ask unanimous consent that the entire letter may be printed at this point in my remarks.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

INTERNATIONAL PRINTING PRESSMEN AND ASSISTANTS' UNION OF NORTH AMERICA,
Pressmen's Home, Tenn., September 8, 1949.
To the Members of Washington Printing Pressmen's Union No. 1.

DEAR SIRS AND BROTHERS: The following official communication, which is self-explanatory, has been addressed to the officials of your local union:

"WASHINGTON PRINTING PRESSMEN'S UNION No. 1,
"Mr. JAMES S. JUDGE, *President*,
"Mr. EDWARD P. BEST, *Secretary*,
"*704 Carpenters Building*,
"*1003 K Street NW., Washington, D. C.*

"GENTLEMEN: Please take notice that on September 21, 1949, at 10 o'clock in the forenoon, at the Administration Building of the International Printing Pressmen's and Assistants' Union of North America, Pressmen's Home, Tenn., a hearing will be held before the board of directors of the International Printing Pressmen and Assistants' Union of North America, at which time you are directed to appear and show what cause, if any you have, why the charter of the Washington Printing Pressmen's Union No. 1 should not be revoked, suspended, or other disciplinary action taken in accordance with the constitution and laws of the International Printing Pressmen and Assistants' Union of North America, as revised and adopted in September 1948, for charged violations of such constitution and laws as hereinafter specified.

"Please take further notice that the board of directors of the International Printing Pressmen and Assistants' Union of North America, acting under the authority vested in them by the constitution and laws of the International Printing Pressmen and Assistants' Union of North America, have on information and belief preferred charges against Washington Printing Pressmen's Union No. 1, of violating the following sections of the constitution and laws of the International Printing Pressmen and Assistants' Union of North America:

"'Article XXII, section 9. Recourse to courts of law. If any subordinate union, or any member of a subordinate union, shall disregard any provision of the constitution or laws of the international union pertaining to appeals, initiative, referendum, or recall, and shall seek adjustment or settlement of its or his claim, differences or controversy by or through means of any suit, action or proceedings of any kind or character whatsoever, in any court of law or equity, either Federal, Provincial, State, county, or municipal, without having first exhausted its or his remedies as provided for in and by said constitution and laws of the international union, shall thereby be automatically expelled from the international union, without notice, and shall thereby forfeit any and all rights and benefits in the international union.'

"Article XXX, section 7, which reads in part as follows:

"'Article XXX, section 7. Obligation. Subordinate unions shall adopt the following obligation:

"'I, _____ solemnly and sincerely pledge my honor that I will not reveal any business or proceedings of any meeting of this union, or any other subordinate union to which I may hereafter be attached, except to those whom I know to be members in good standing; and that I will, without equivocation or evasion, abide by the constitution and laws and the adopted scale of prices.

"'I furthermore promise that I will not apply to the courts for redress in any manner concerning or affecting the organization without first appealing to the officers, board of directors and the convention of the International Printing Pressmen and Assistants' Union of North America, as provided by the constitution and laws thereof.

"'Article XXX, section 45. Appeals for financial aid. No appeal for financial and shall be made by any one subordinate union to any other subordinate union until approval thereof by the board of directors shall have been first obtained.

"'Article XXX, section 59. False charges. Any member of a subordinate union, who does any act or thing, or makes any statement that is, or may be, injurious to, or that reflects on the honesty or integrity of any member, or makes any charge or claim that any member or officer is or has been using the funds or properties of the international union, or of a subordinate union, or appropriating the same to his own use, and does not produce proof to sustain such charges or claim, shall be fined not more than $200, or suspended, or expelled as the board of directors may determine.'"

Sincerely and fraternally,

J. H. DE LA ROSA,
S. S. MAYTED,
C. V. ERNEST,
A. J. DI ANDRADE,
WALTER J. TURNER,
GEORGE L. GOOGE,
WM. H. MCHUGH,
Constituting the Board of Directors of the International Printing Pressmen and Assistants' Union of North America.

Mr. MORSE. The point I wish to make, Mr. President, is that constitutional provisions such as those set out in the September 8 letter of the officers of the International Pressmen's Union to the officers of the Washington Local No. 1, have a very plausible and a meritorious side to them. If a union in fact operates as a democratic organization, if a union in fact proceeds to live up to the spirit and the intent and the ideals of its constitution, then the rights and interests of the rank and file members will be protected. I do not deny that. But I point out, Mr. President, that such broad powers in a constitution given to a group of international officers, or as in the case of the pressmen's union given to Mr. Berry, can be used as weapons for dictatorship over the members of the union. In my judgment that is the type of a union leader Mr. Berry was. He ran his union with an iron hand. His will prevailed. Over the years he did not brook opposition. He was in a position to use the procedures of the constitution I have just outlined to silence or to beat down any threatened dissension within the union, and if any local union did start to take any steps to challenge his leadership or raise any question as to the business practices of the union and the use of the funds by the president of the union, quick discipline was meted out, and the local was made to understand very quickly that its charter would be jerked.

Therefore, Mr. President, what I am pleading for tonight is a recognition on the part of the American unionists themselves that not only from the standpoint of their public-relations standing with the American public but also from the standpoint of their own interests in protecting democratic processes within their union, they ought to recognize that the modern trade-union is quite a different type of union from the little local brotherhoods and lodges and fraternities which characterized the American trade-union movement back in the 1870's, the 1880's, and the 1890's.

At this point I wish to make and emphasize one of the major points of this speech, and that is that American trade-unions are now charged with a public interest. They no longer are private lodges. They no longer, in the old sense, are fraternities of workers. They no longer are merely brotherhoods of coworkers seeking to advance their economic interests and their social relations. American trade-unions have become charged with a public interest. I think they are inseparable, just as the great corporations of the country are inseparable, from our American way of life. If we do irreparable damage to the American trade-unions, we do irreparable damage to free trade-unionism in America and to the free-enterprise system represented by the great business organizations of America, and we also do irreparable damage to political freedom, to our system of political democracy, because the interwoven, interrelated, interknit relationship between our economy and our political institutions is such that we cannot separate one element from the other.

I believe that the great guarantees and principles which we call the democratic process must manifest themselves in all our American institutions in order to preserve freedom in our country as a whole. If these principles of freedom are not functioning within the trade-unions and within the business organizations, and among our farm organizations, if those principles of freedom are not manifesting themselves in all American institutions, then we have the beginning of the undermining of the great structure of free government in a free society in our country.

I have said to labor unions for many years, as I have talked to them—and I have dwelt on it at great length in personal conversations with American union leaders—that the greatest strength of the American labor movement should be a constant demonstration of democracy put to work in our labor organizations. If American trade-unions will always put into practice the principles of democratic processes and will constantly demonstrate to the American people that they are organized for and exist for the improvement of the welfare of the workers in accordance with the highest ideals and traditions of our system of democracy, they will not have to worry about public support for their legitimate rights in the field of free collective bargaining.

On the other hand, if they permit a growth of the feeling which now exists in this country to a degree beyond which I think it is good for labor to have it exist, that some of the leaders of some unions are more concerned about concentrating greater power in the officials of the union than they are in seeing to it that the welfare of the rank-and-file members always receives first consideration, then the American trade-union movement is bound to find itself in conflict with and in contest with public opinion.

My colleagues have heard me say this before, but I want to repeat it tonight in connection with the particular problem I am raising. In 1947 American labor found itself outside the framework of public opinion. There is no doubt about the fact that in January, February, and March 1947 there was the widespread view among the American people that some drastic labor legislation should be passed, controlling what was said at the time—almost in slogan form—to be the abuses of organized labor. When we talked to individuals who commented in those terms and tried to pin them down to just what it was they thought ought to be covered in such legislation, and to say specifically just what it was they thought were union abuses, they usually became rather vague and not quite as dogmatic as they were when they first told us, "What we need is some labor legislation with teeth in it."

When we asked them, "What is it that you want to chew with this legislation?" they found it somewhat difficult to be specific. But by and large they were specific on one common complaint, and that complaint was that they thought too many officers of too many unions exercised too much control over the rank-and-file members of the unions, and that the policies of the unions were not being determined to a sufficient degree by the members thereof.

Even that charge was an overgeneralization. It was a blanket charge which many critics made. Many of them were for various selfish reasons professional critics of organized labor, and were anti-labor in bias. Most of those charges were not applicable to most American trade-unions. But there was a considerable body of fact in support of the charges. I believe that most of the criticism in January, February, and March of 1947, by those who wanted the Congress to pass drastic antilabor legislation, could not be substantiated in fact. On the other hand, I would be less than honest if I did not point out, as I did at that time, that some modifications of the Wagner Act were needed, because in my judgment the Wagner Act violated the principle that the rules of the game should apply to both teams which play it. As the Presiding Officer knows, I have always stood, on the floor of the Senate, in connection with labor legislation, for the view that we should pass labor legislation which gives to both employers and workers the same procedural rights and guaranties in respect to prosecuting charges of unfair labor practices practiced by one on the other, be it the employer on the union or the union on the employer.

At our hearings in 1947, I said to the labor leaders, as they appeared before the Labor Committee, "What specific recommendations do you have to make in regard to labor legislation?"

Their attitude can be summed up by saying that they told us they did not want any legislation at all; they did not think any legislation was necessary; they were opposed to any legislation.

I tried to get them to see that by taking that attitude they were not helping their friends in Congress—and by "their friends," I mean those who wanted to protect the legitimate rights of labor, just as we wanted to protect the legitimate rights of business and also the legitimate rights of the public. I tried to get them to see, as the official records of those hearings will show, that they were going to get some legislation; and I remember that I said, in effect, at one of the hearings, "You are going to get legislation more drastic than needs to be passed, and some of us probably will find ourselves faced with the necessity of making the choice of voting for or against legislation more drastic than would be the case if you would agree to have legislation which would protect your rights, but at the same time would protect the need of the public for such legislation"—but legislation much less drastic than the legislation the labor baiters in the country wanted to have passed at that time.

Mr. President, you know what the record shows in that connection. We did not get that help from the labor leaders—with the result that the Taft-Hartley law was passed.

I shall always be proud, not only of my vote against the Taft-Hartley law but of my fight against its passage. I would incorporate in the RECORD tonight, by reference, Mr. President, in order to show my position, every argument I used against the Taft-Hartley law in 1947; and I say I would not change a single word in those arguments.

The Congress of the United States in 1947 did a great disservice to American workers by passing the Taft-Hartley law; and I stand for its repeal, and I have fought for its repeal, and I shall continue to fight for its repeal.

In this session of Congress, I have stood against a continuation of the Taft-Hartley law on the statute books. I have tried to cooperate in this session of Congress in working out a modification of the Thomas bill which, by and large, is a bill in the right direction, as far as fair labor legislation is concerned.

However, the history of this Congress shows that a combination of forces in the Senate of the United States made it impossible to enact a bill which called for the repeal of the Taft-Hartley law, or to secure the adoption of modifications of the Thomas bill at this session of Congress.

In the 1950 session, I will again be found among those who will be working for and voting for a repeal of the Taft-Hartley law, but also, Mr. President, working for and voting for the type of legislation which, since 1947, I have advocated on the floor of the Senate, which advocacy by me of such legislation constitutes my record on labor issues; and

that record will be the record on which I shall ask, as far as the labor issue is concerned, for the endorsement of a majority of the voters of my State, when I am up for reelection.

I have said these things about labor legislation because I wish to say to the rank-and-file members of the pressmen's union and to the rank-and-file members of every other union in this country—A. F. of L., CIO, railroad brotherhoods, independents, and mine workers—that I intend to continue to vote with labor when I consider labor is right in regard to the merits of any issue; and I intend to continue to vote against labor—as I have done ever since I have been in the Senate—whenever I am convinced that labor is wrong on some issue. I propose to exercise an honest independence of judgment on the facts presented to me in connection with proposed labor legislation, when I come to vote on it.

Mr. President, I am that type of friend of labor. I say to labor that that is the only type of friend who can be of true service to labor in the Congress. If what labor wants is a stooge or a puppet or someone who will vote at the dictates of labor, then labor should recognize that what it is dealing with is a dishonest man. If a man who, when serving in the Congress of the United States, would vote in accordance with the dictates of labor or of the National Association of Manufacturers or of any professional group or of any farm group or of any other special interest group, then the members of that group should know they are dealing with an intellectually dishonest man, and they should not trust him or have any respect for him or want to carry on any relations with him.

In making my criticism of certain practices which I think have developed in the pressmen's union, my plea to the pressmen's union and to its international officers and to the rank-and-file members is that they proceed now to take the steps necessary to clean up the finances of the union and to modify the procedures of the union so that it will be a labor organization which will meet the test of the type of democracy in trade-unions for which I have been arguing.

One of the first things the union should do is make clear that in the procedures provided for in the constitution of the union, there will be a modification which will not deny due process of law to the members as the result of long delays on the part of those responsible for calling conventions. I say that, because if that union had proceeded expeditiously in that matter, the Berry financial manipulations would have been cleared up years ago. If the members of the union in convention assembled had made very clear that they wanted all the business transactions of the union to be an open book, then some of the abuses, which I am satisfied from the record exist in the union's financial affairs, would never have arisen to bring discredit upon it.

Now, Mr. President, what about some of the financial transactions? I ask unanimous consent to have inserted at this point in my remarks the contents of a little pamphlet entitled "Questions and Answers"—questions about the national policy committee of locals and members affiliated with the International Pressmen's Union. It is signed by Archie France, temporary chairman, and Harry Wendrich, temporary secretary and treasurer.

The PRESIDING OFFICER (Mr. SALTONSTALL in the chair). Is there objection?

There being no objection, the pamphlet was ordered to be printed in the RECORD, as follows:

QUESTIONS AND ANSWERS ABOUT THE NATIONAL POLICY COMMITTEE OF LOCALS AND MEMBERS AFFILIATED WITH THE I. P. P. AND A. U. OF N. A.

1

Question. What is the national policy committee?

Answer. It is a committee composed of locals and members of the I. P. P. & A. U. of N. A. who voluntarily join it and contribute to its purpose.

2

Question. What is the purpose of the national policy committee?

Answer. The purpose of the national policy committee is to take the necessary action to recover funds and property belonging to the international estimated at nearly a million dollars. A second purpose of the committee is to aid in bringing about a more democratic union.

3

Question. Who estimated the national policy committee?

Answer. The national policy committee was established by members of the I. P. P. & A. U. of N. A.

4

Question. Why was the national policy committee established?

Answer. In official hearings conducted by a subcommittee of the Committee on Labor and Education of the United States House of Representatives, facts were disclosed from which it appeared:

(a) That funds of the international union in the amount of at least $850,000 and probably more had been diverted to the personal profit of Berry and another former officer of the union.

(b) That the incumbent international board of directors were incapable of making a thorough independent investigation into the facts, and further that they were not disposed to take vigorous legal action to recover hundreds of thousands of dollars in cash and valuable property rightfully belonging to the union. (These disclosures are set forth in full detail in a pamphlet containing the report of the investigating committee of local No. 1.)

When these facts became obvious, the national policy committee was formed to protect the interests of the international, its locals and members.

5

Question. Why cannot the incumbent international board of directors protect the interest of the membership?

Answer. The incumbent board members are mostly men who owe their position to Berry and who it appears from present evidence, in one way or another participated in the transactions which must be challenged. Whether they profited or not, and we do not on present facts, say they did, it is certain that they cannot make an independent investigation into their own conduct, or be expected to take vigorous legal action. They have taken some action but only under great pressure, and then only for a minute part of the funds involved. They have filed claims against the Berry estate for only $82,566.16; they are in the process of settling the $800,000 claim against the International Playing Card and Label Corp. for an utterly inadequate sum. As further proof of their incompetency to act independently, there is the fact that the attorney for the board of directors was Berry's attorney and was named as a beneficiary in Berry's will.

6

Question. Why do the international board of directors attack the national policy committee?

Answer. The attacks of the international board of directors upon the national policy committee are further proof of their inability to represent the membership against the Berry estate. The national policy committee has taken a simple position: All the facts concerning the use of union funds by Berry should be placed before the courts and a judicial determination secured concerning the rightful ownership of properties in the Berry estate paid for out of union funds.

7

Question. Why is independent legal action necessary to protect the interest of international, local, and members?

Answer. Legal action is necessary because legal proceedings are now pending in which a decision as to the rightful owners of property and funds in the Berry estate will be made, namely the probate proceedings on the Berry will. The union must intervene in these probate proceedings and state its full claim; otherwise, unless objections are made, the probate court may validate the will and transfer the funds and property to the persons named in the will. The union must intervene to assert its claim to the property which was paid for by union funds and in addition file a claim for all other sums of money taken from the union treasury and used by Berry for his personal profit. The committee intends to ask the board of directors to file a claim covering the entire Berry estate, but because the board has not itself taken this step during the almost 9 months which have passed since the probate of the will, the committee does not expect the board to take such action. The committee must therefore, be ready to take independent legal action.

8

Question. Why must immediate legal action be taken?

Answer. Legal action must be taken almost at once because the probate proceedings described above are now pending and the deadline for filing claims is October 6, 1949. Furthermore, the international board of directors have filed a claim for only a minute part, $82,566.16, and are proposing to settle the claim against the International Playing Card & Label Co. Unless action was taken before the deadline, the union will forfeit its right to present its claims.

9

Question. Why is the national policy committee seeking funds?

Answer. The national policy committee is seeking funds from members and locals to meet expenses. No officers of the committee are being paid. These expenses are mainly legal expenses. Lawyers are needed to make the investigation into the facts and to take the necessary legal action. Only lawyers can unravel and analyze the facts involved in this matter which includes loan transactions, organization of corporations and probate of wills. The committee is in touch with most reputable and experienced lawyers.

10

Question. How much money does the national policy committee require?

Answer. It is not possible to say what the full amount may be—at least $10,000 is needed for legal, court, and printing expenses. The secretary-treasurer of the committee is bonded and a full accounting will be made for every penny.

11

Question. Can the international board of directors lawfully expel or suspend any local or member for joining the national policy committee?

Answer. The international board of directors cannot lawfully expel or suspend any local or member for joining the national policy committee and any attempt by the board of directors could be enjoined. This is the opinion of reputable attorneys. They have advised that union members have a fundamental right to make an independent investigation into these facts and to take all necessary and proper legal action. (A copy of this opinion will be sent on request.)

12

Question. Is the national policy committee violating the provision of the constitution prohibiting going to court without first seeking redress from the board of directors and a convention?

Answer. No. The national policy committee is not violating the prohibition of the constitution against going to court without first seeking redress from the board of directors or a convention. The national policy committee intends to ask the board of directors to act but has no expectation that the board will do so. In view of the necessity for action before October 6, 1949, we are advised that the right to an appeal to the next convention of the international union need not be exercised.

13

Question. Why cannot the questions be left to a convention?

Answer. The questions cannot be left to a convention because the next regular convention will not be held until 1952 which will be much too late for reasons given above. A special convention cannot be called easily or quickly, because there is no provision in the international constitution for a special convention. Moreover, the questions concerning the funds and property of the union cannot be settled by any convention. A union convention cannot decide whether the union has a rightful claim to funds and property in the Berry estate; that question can only be decided by the courts, upon a full and aggressive presentation of all the facts, on behalf of the union. Legal action on the property rights of the union is independent of any convention. Amending the international constitution to make our union more democratic and to prevent mismanagement in the future, is another matter. The national policy committee will also act on these problems, but independent legal action on the past affairs is a separate matter requiring immediate action now.

14

Question. Is the national policy committee violating the provision of the constitution prohibiting the solicitation of funds without approval of the board of directors?

Answer. No; the national policy committee is not violating the prohibition against soliciting funds without approval of the board of directors. The prohibition cannot be construed to prevent the membership of the union from taking independent necessary legal action to protect the rights of the union, in a matter on which the board of directors are incompetent and prejudiced. We are so advised by legal opinion mentioned above. We have a right to take legal action, legal action costs money and we must have the right to raise the money, where the board of directors wrongfully object to legal action.

15

Question. Will the purposes and action of the national policy committee hurt the international union?

Answer. The purposes and action of the national policy committee will not hurt the international union. On the contrary, the purpose and action of the committee will strengthen and preserve the union. The committee is not taking legal action against the international union. Its legal action is on behalf of the international union and for its benefit. The committee is challenging the past actions of Berry which were detrimental to the union; it is challenging the incumbent board of directors for failing to take aggressive independent action to protect the interests of the international union, its locals and members. But this union is bigger than any individual official and criticism of past or present officials is not criticism of the union. A democratic union depends upon the ability of the membership to control its affairs. Under a dictator, no one could criticize the dictator.

16

Question. What is there to gain by joining the national policy committee and contributing to its expenses?

Answer. A contribution to the national policy committee is an investment of a few dollars by each member to recover what may amount to nearly a million dollars of funds and property rightfully belonging to the international, its members and locals. If the members and locals of this union do not support the national policy committee, no one will. Even if we never collect a penny, we will at least clean up an old mess. It is up to us to protect and preserve our union, so that we shall continue to grow bigger and stronger with complete faith in our leaders instead of doubt.

If you want to help preserve your union, join the national policy committee. It's up to you. Send your contribution today. Tear off the back of this leaflet and fill out the coupon. You will receive a certificate of association in the national policy committee. Act now.

NATIONAL POLICY COMMITTEE,
ARCHIE FRANCE,
Temporary Chairman.
HARRY WENDRICH,
Temporary Secretary-Treasurer.

Mr. HARRY WENDRICH,
Temporary Secretary-Treasurer, National Policy Committee of Locals and Members of the I. P. P. and A. U. of N. A., Room 406, 207 Market Street, Newark, N. J.

DEAR SIR AND BROTHER: It is my desire to become an associate member of the national policy committee and I therefore enclose herewith $_____.

Name_____
Street_____
City and State_____
(This information will remain confidential unless otherwise specified.)

Mr. MORSE. Let us now take a very quick résumé of the steps that have been taken in connection with the allegations concerning the financial affairs of the union.

First. A House Labor Subcommittee on Democracy in Unions went into the International Pressmen's and Assistants' Union situation, developing at open hearings charges similar to those I presented to the Senate committee when I requested appointment of a subcommittee.

Second. Although Representative ANDREW JACOBS, chairman of the subcommittee, outlined to the committee's chairman a further course of action, the subcommittee was abolished. Mr. JACOBS has publicly charged that the committee was abolished at the behest of George Googe, international vice president of the pressmen's union. He has said that Mr. Googe announced in Indianapolis that the subcommittee was dead a full week ahead of the formal announcement.

Third. Once the subcommittee was abolished the international union moved against Washington Local No. 1, one of two locals which demanded an investigation into charges that the union's funds had been misused. When the subcommittee was in force, Representative JACOBS had warned the international officers against attempting to move against any local or individual who had testified concerning the activities of the late George L. Berry and other international officers.

Fourth. The Washington local and the Essex County, N. J., local have formed a national policy committee to sue the international union and to act against the estate of the late George Berry in an attempt to recover among other items a million dollar playing card and label company which was organized with the interest-free use of almost $900,000 of union funds. An estimated half of that sum still is outstanding.

Fifth. With the abolition of the subcommittee the international officers have moved against the Washington and Essex County locals. They summoned officers of the locals to Pressmen's Home, Tenn., to show cause why disciplinary action should not be taken against them.

Sixth. Louis Lopez, international representative of the union, has been fired. Subsequently he was nominated as a candidate for the presidency of local No. 1 here in Washington, and is at present a candidate for that position.

I pause, Mr. President, to say that I served for 2 years on the War Labor Board with Mr. Lopez, who was one of the alternate labor members of the Board. I do not know how many cases we sat in together, but there were scores of them. Labor could not have had a representative in its cases before the War Labor Board more determined to see to it that the legitimate rights of labor were protected; but he at the same time, as did the other labor members of the Board, as well as the employer members of the Board, recognized that the public interest had to be placed first and receive primary consideration by the Board in each and every case that came before us.

We were at war, and the one primary question that we had to find the answer to in each labor case during the war was, "What fair settlement of this case is necessary, to promote the most effective prosecution of the war?" As I said, in some decisions, Mr. President, we did not find time always, because of the great speed with which we had to work on those cases, to find an answer to all the contentions made in them. We would find the time, in peacetime, for trying to determine the cases on the basis of a judicial determination of the various issues. But we did, Mr. President, with the cooperation of the employer and labor members of the Board, do justice in each case, fulfilling our primary obligations, namely, to get the case settled in accordance with what would promote the most successful prosecution of the war in respect to the individual labor dispute. Louis Lopez, of the Pressmen's Union, was one of the great labor statesmen who worked shoulder to shoulder with the employer members of

the Board, the other labor members of the Board, and the public members of the Board. On many occasions when the decision came down adverse to labor, and Louis Lopez dissented in the case, his voice was always among the first to be heard, to say, "The Board has spoken, and now we must stand unanimously and united in seeing to it that the decision of the Board in this case is enforced."

Some of those enforcement cases, Mr. President, were exceedingly difficult. I know whereof I speak, because I served as the compliance officer of the Board. It was my task to have to carry out the enforcement policies of the Board, even including the preparation of papers for the President to sign, calling either for seizure or for some other presidential action. Because of my association with Louis Lopez on the War Labor Board, I have an exceedingly high regard for him, and I know that he seeks to promote the democratizing of American unionism in whatever segments of the labor movement democratizing is needed. Because he is joined with members of Local No. 1 in raising questions as to the management of the pressmen's union funds, and suggesting that legal action ought to be taken to protect the members of the pressmen's union, in a recovery of all funds that can be recovered through legal action, he is being subjected to censure and discipline on the part of the international officers of the pressmen's union.

Seventh. In summation, Mr. President, of what is happening in regard to this matter, the locals have formed a national policy committee which is raising money to proceed with legal action against the international and the Berry estate, and to forestall the international's taking over the locals under a stewardship through legal action.

Eighth. Representative JACOBS is leading a fight in the House Labor Committee against the proposal to dissolve the subcommittee. He also quipped recently that the House has been carrying the ball on the investigation, while the boys in the Senate have squatted on their haunches and ducked the problem. As I told Mr. JACOBS, that is not a very apt description of what we have done, because we have been waiting in the Senate for the House subcommittee to complete its investigation of the pressmen's union, believing that if the investigation proceeded to its ultimate conclusion there would be no need on the part of the Senate committee to proceed with any further investigation.

Mr. President, the case history of the pressmen's union investigation, I think, shows a clear-cut case of a union president, Mr. Berry, using the funds of the organization for his own purposes. I think the investigation has brought out that the union even paid $25,000 in income-tax penalties for Berry; that he owed the union some $60,000 for farm equipment purchased with union money but delivered to his personal farms; that the $900,000 to organize and operate the International Playing Card Co., of Rogersville, Tenn., was used interest-free without protest from the other officers of the union, many of whom held office under Berry.

I think, Mr. President, that the attitude of the international officers since the Jacobs subcommittee was abolished demonstrates the often-made charge that the rank and file has no voice in the activities of some unions. Here is a case of a local preparing to sue the Berry estate to recover union funds.

The international contends the action is a violation of the union's constitution and moves against the local. The international insists that the local must follow the chain of appeal outlined in the constitution if it legally is to move against the Berry estate.

The constitution provides that the chain of appeal is to the international officers, then to the union's infrequent conventions. If this course were followed, the statute of limitations would run on any attack on the Berry estate. Also the union's international officers, principally the secretary-treasurer and president, were officers under Berry while the international lawyer was a beneficiary in the will left by Berry.

Mr. President, I understand it is true that the international officers, since Washington Local No. 1 has made clear its intentions to proceed with legal action, have instituted some legal procedure. But I understand there is a question as to whether the actions which it proposes to file or has filed are broad enough to encompass the full protection of the rank-and-file membership in the alleged wrongdoings of Berry while he was president of the union.

Bearing on the attitude of local No. 1 in respect to this case, Mr. President, I ask unanimous consent to have printed at this point in my remarks the contents of a pamphlet entitled "Progress Report of Special Committee of Washington Pressmen's Local No. 1 Appointed To Investigate and Protect the Interest of the Members in the Will of Our Late President George L. Berry."

There being no objection, the pamphlet was ordered to be printed in the RECORD, as follows:

PROGRESS REPORT OF SPECIAL COMMITTEE OF WASHINGTON PRESSMEN'S LOCAL NO. 1 APPOINTED TO INVESTIGATE AND PROTECT THE INTEREST OF THE MEMBERS IN THE WILL OF OUR LATE PRESIDENT GEORGE L. BERRY

In March, the membership of Local No. 1 was shocked to hear a national radio broadcast advising the pressmen's union to investigate the will of our late President George Berry. The broadcast was followed by newspaper articles hinting at financial manipulations by the late President Berry with pressmen's union funds.

Preliminary discussions among members of the local union resulted in a decision by Local No. 1 to appoint a committee charged with the duty of determining once and for all whether the stories and radio broadcasts were worthy of a committee of our union investigating further.

Such discussions resulted in the following action: "A motion was made that we go on record and send a wire to the international demanding the rights of the members of the international be protected. The motion was amended to appoint a committee of three to investigate and protect the interests of the membership regarding the will of our late President George L. Berry. Amendment and motion unanimously carried."

A wire was immediately dispatched to President J. H. de la Rosa, advising him of the action which had been taken by local No. 1. In reply to our wire the following wire was received from President de la Rosa:

"Your wire received. Radio broadcast unfounded in my opinion and should be given least possible publicity. This office has no comment to make other than to our membership which is: This matter will be handled by our home trustees and board of directors to protect any interest our membership may have in the matter.

"Kindest regards,

"J. H. DE LA ROSA."

ONE HUNDRED THOUSAND DOLLARS LOST

This subject became the topic of much newspaper publicity and was also followed by other broadcasts of radio commentators. Due to the publicity which reflected the manipulation of many hundreds of thousands of dollars of our union's funds a subcommittee of the House Labor and Education Committee, which was set up to investigate undemocratic practices within unions, subpenaed certain members of the international and local pressmen's unions to gather pertinent information to suggest legislation.

The hearings before the subcommittee developed startling testimony and shocking facts concerning the operations of our union. Our oldest international officers left the presentation of their side of the story in the hands of Vice President Googe, one of the most recent international officials.

As a matter of courtesy, the committee awaited the results of the investigation by the board of directors and home trustees as promised by President de la Rosa in his wire, even though the committee had received, without solicitation, letters from the Boston Newspaper Printing Pressmen's Union No. 3; Seattle Printing Pressmen & Assistants' Union No. 39; Indianapolis Printing Pressmen's Union No. 17; San Francisco Printing Pressmen & Assistants' Union No. 24; Essex County Printing Pressmen & Assistants' Union No. 31; Oakland Printing Pressmen & Assistants' Union No. 25; Columbia Printing Pressmen & Assistants' Union No. 27; Charlotte (N. C.) Local No. 131, and numerous individuals pledging wholehearted support and cooperation to this committee, looking toward an independent investigation to protect the interests of our membership.

On the afternoon of our regular meeting date, May 23, we received a report of the board of directors and the home trustees of the International Printing Pressmen's and Assistants' Union of North America to the membership. Vice President Googe attended our meeting that evening and gave a report on the findings of the board of directors and home trustees. He read from the report on page 28, as follows: "Your board of directors and home trustees have acted promptly and effectively in all matters involving the interest of the membership. Our actions have resulted in payment of every dollar in full invested in the International Playing Card & Label Co. resulting in collection of the balance of $422,984.50." Vice President Googe informed the membership that of these funds $200,000 had been set aside in a trust fund to cover payment of pensions.

Brother France asked Vice President Googe how the $200,000 was allocated. Vice President Googe appeared surprised and said it was all principal as there could be no interest since the fund was so recently set up.

Brother France explained to Vice President Googe that under the bylaws that no pensions could be paid from that fund as the bylaws stated that pensions must be paid from interest only.

Following is an excerpt from the international bylaws: Article XVII, section 1, page 73—

"said payments in all respects to be borne specifically from interest accruing from the

principal, it being clearly defined that pension payments shall in no instance involve an encroachment upon the permanent principal established for the payment of pensions."

Vice President Googe said there had been a resolution changing that article. Brother France informed him that his information was from the revised and adopted edition of constitution and laws of September 1940 and that there was no record in the report of the convention of 1948 of a resolution changing this matter.

Vice President Googe said he would have to look further into this matter. We have received no report to date.

Brother Lescure stated to Vice President Googe that he noted that the international union loaned about $900,000 to the card and label company and received no interest. At 2 percent this money would have returned $18,000 a year. For a period of 20 years this would have drawn over $300,000 in cash for the union. Had this been placed in the pension fund we feel sure they could have paid more than $3 a week to the pensioners.

In view of this interest-free use of $900,000 of our money, Brother Googe was asked why at a very late date, did the board of directors see fit to enter a charge against the union for $4,000 a year, a total of $88,000, for organization expenses which was supposed to be the cost of maintaining one organizer.

Why did it take the board of directors over 20 years to finally decide that this sum of money should be paid, and paid retroactively?

Mr. Googe replied it was money well spent.

Referring to the report of the board of directors and home trustees mailed to the members the latter part of May, we wish to direct your attention to paragraph 2 of the contract with the Playing Card & Label Co. as set forth on page 9 which refers to credits to interest and principal and reads as follows:

"(2) That upon the payment of $1,000 per month on the option price that the said International Playing Card & Label Co., Inc., is to be given credit in proportion to said monthly payments of ownership to the degree represented in said payments and thus a reduction in said rental and interest now being paid on the basis of $1,000 per month shall be reduced, and that the stock collateral for the support of said amount shall be returned and released to the degree of $1,000 per month payment."

This conflicts with the paragraph (b) at the bottom of page 13 which clearly sets forth there is no intention upon the part of the board of directors to collect interest. This paragraph reads as follows:

"(b) It has not been the purpose nor is it the purpose now, according to the terms of the agreement and amended agreements, approved by previous conventions, to draw interest upon the moneys advanced by the international union in this respect. The proposition is simply tht the moneys advanced representing principal shall be fully paid to the international union and that all items paid, irrespective of their classification by and through payments, are to be regarded as the principal over-all as it relates to the indebtedness of the cooperation to the International Printing Pressmen's and Assistants' Union of North America."

It is inconceivable how two printed statements in the same small report can be so contradictory.

Brother France asked Vice President Googe why the account of the International Playing Card & Label Co. with the I. P. P. and A. U. of N. A. on page 14 of the board of directors' report showed only the years 1929 through 1939 when the International Playing Card & Label Co. was incorporated in 1926. During the infancy and incorporation, the buying of ground, buildings, and machinery there is, as a matter of fact, quite an expense. Therefore, what amount had the international union put into the concern in the years 1926 and 1929. To this Vice President Googe replied he did not know and that he would have to find out. The committee has not been advised by Vice President Googe to date.

After perusing the report of the board of directors and home trustees and examining the explanations of Vice President Googe concerning said report, the committee of No. 1 felt that the report and Vice President Googe's explanations were far from satisfactory, therefore they sent the following letter to President de la Rosa:

WASHINGTON, D. C., *May 28, 1949.*

Mr. J. H. DE LA ROSA,
President and Chairman of the Board of Directors, International Printing Pressmen's and Assistants' Union of North America,
Pressmen's Home, Tenn.

DEAR SIR AND BROTHER: The special committee appointed by Printing Pressmen's Local No. 1 of Washington, D. C., has received and carefully perused the report issued by the board of directors and home trustees in which they set forth their actions and findings. There are certain statements and omissions in said report we would like to have cleared up, as follows:

(a) The report does not answer serious charges made concerning the late President Berry's use of union funds. Neither does the report give a complete picture of what steps are being taken to protect the union in the future against such instances as the late Joseph C. Orr's indebtedness to the union in the sum of $69,623.22 and President Berry's involvement to the extent, according to the report, of $61,069.28 for Riverview Farm account.

(b) The committee is especially concerned that the board of directors of the international union, many of whom held office under the late President Berry, advanced no explanation concerning:

1. How the late Mr. Orr was able to withdraw $175 per month for 12 years without attracting attention of the board of directors, or the auditors, when it is mandatory that the president countersign all checks issued.

2. Why the union's board of directors and the firm of auditors hired by the union were unable to determine for a period of 4 years the extent to which President Berry became involved with union funds in the purchase of equipment for his personal farm. The report states on page 20 that "the attention of the board of directors and the home trustees was called to the communication dated May 17, 1944, from George L. Berry to the J. D. Cloud & Co., auditors, in which the late President Berry requested 'that when such an audit had been completed and a final conclusion reached that he would "liquidate" or his estate shall be responsible for it on the occasion of my death.'" The committee is not clear on the date the board of directors was advised of the letter's existence or why it would require such a length of time to determine the amount President Berry was indebted to the union.

3. The committee would like to know whether those members of the board of directors, including the secretary-treasurer, had knowledge of the late President Berry's farm-equipment transactions and the late Mr. Orr's misuse of union funds. If so, the committee would like to know why more prompt action was not taken to recover the sums mentioned in the report.

4. The committee also would like to know the extent to which the international union is involved in the payment of inheritance taxes, State and Federal, on any portion of the estate of the late President Berry and whether the terms of the George L. Berry endowment relating to the payment of $2,100 annually to Mrs. Berry are being carried out.

(c) The committee would like to challenge the payment of $88,000 to the International Playing Card & Label Co., Inc., at $4,000 a year, for organizational expenses. The committee would like to point out that the company, a privately operated organization headed by the late President Berry, had use of almost $900,000 of union funds interest free, whereas at the rate of only 2 percent per annum the union could have collected $18,000 a year if such funds had been invested for the benefit of the International during the lengthy time the money was being used by the playing-card company.

(d) The committee also would like to determine whether the Playing Card Co. maintained its payments on life insurance in the amount of $150,000 on the life of the late President Berry. In this connection the committee notes the union's board of directors and the home trustees failed to include item "e" of the president's report to the thirty-fourth convention.

Item "e" read as follows: "The International Playing Card & Label Co. is paying (thus relieving the International Printing Pressmen's and Assistants' Union of the payments) the premiums upon the $150,000 life insurance carried on the writer as the president of the International Printing Pressmen's and Assistants' Union and upon my death the $150,000 will be paid to the International Printing Pressmen's and Assistants' Union of North America. Meantime, as stated, the premiums are being met by the International Playing Card & Label Co. and of course, when the $150,000 is paid it will be a part of the liquidation of the real estate now in the process of purchase."

The committee notes that on pages 13 and 14 of the report the item "e" was not included, although all other sections of the president's report to the thirty-fourth convention relating to the playing-card company were included. In this connection the commitee would like to know whether the $150,000 insurance policy was paid to the union and if it is included in the $249,000 item the report shows as having been paid the union under the heading "Property option payments and payments on note."

(e) The committee notes that on page 14 of the report, the directors show the union's account with the playing-card company during the period from 1929 through 1939. The committee understands the company was organized in 1926 and would like to know what union funds were expended between 1926 and 1929 and whether payment has been made by the company to the union for any such sums.

(f) The committee would like to have a detailed record of whether any officers or employees of the union, past or present, are beneficiaries under the will of the late President Berry and, if they are, the committee would like to know the extent of their participation in the directors' investigation into this matter.

(g) The committee also notes that the investigation did not go into the question of whether stock held by the late President Berry actually was the property of the union. The committee notes that testimony during President Berry's trial for tax evasion in 1948 in Federal court at Nashville revealed that stock purchased with union money was issued in the name of the late President Berry.

(h) For all of the above-mentioned reasons, the committee of local No. 1 feels that out of fairness to the union's membership and officers, an independent investigation should be launched to determine:

1. Whether the union has any hope of recovering interest or a share of the International Playing Card & Label Co.

2. Whether responsibility for the lax financial operation of the international in connection with the late President Berry's farm account and the late Mr. Orr's withdrawals can be fixed.

3. Whether other charges not discussed in the report of the board of directors and home trustees should be investigated.

Awaiting your reply, we are,

Sincerely and fraternally,

ARCHIE FRANCE,
Chairman.
LEWIS W. THOMAS, Sr.,
Committee Member.
LEO L. LESCURE,
Committee Member.

At the opening session of the hearings conducted by the subcommittee of the House Committee on Education and Labor, the first person called upon for a statement was International President J. H. de la Rosa. He read the following statement into the record:

Congressman ANDREW JACOBS, a Democrat, the subcommittee's chairman, told President de la Rosa that he could proceed and here is our president's statement:

"Mr. DE LA ROSA. Thank you, Mr. Chairman. I am here in response to a subpena, and I will say that I assumed the office of president in 1948. If there are any questions, I should like to defer those to Vice President Googe, if it is agreeable to the committee.

"Mr. JACOBS. Go ahead.

"Mr. DE LA ROSA. That is my statement, Mr. Chairman."

Subsequently it was developed in these hearings that the $422,984.50 has not been received and therefore the statements of Vice President Googe to the meeting of local No. 1 were not accurate and the committee quotes this information from the transcript of the above-mentioned hearings (p. 248, line 6 through line 5 on p. 252):

"Mr. JACOBS. Has that $422,000 been paid back? There was a balance of $422,984.50, according to this report the officers made to the membership. Has that been paid back?

"Mr. MCHUGH. Well, of course, Mr. Chairman, all of that money wasn't advanced at one time. It was over a period of years.

"Mr. JACOBS. I understand.

"Mr. MCHUGH. And the four-hundred-and-some-odd-thousand dollars coming to us has not been paid to us.

"Mr. JACOBS. You have not actually received that money?

"Mr. MCHUGH. No, sir; that is right.

"Mr. JACOBS. But your report shows you have.

"Mr. MCHUGH. I don't think it shows that, sir.

"Mr. JACOBS. Let us see. We have it already. I may be in error. Look on page 28 of the report of the officers to the membership, and under conclusion it states: 'Your board of directors and home trustees have acted promptly and effectively in all matters involving the interests of the membership. Our actions have resulted in $1,000 a month for a term of 99 years. This money will be used in improvements, development, and maintenance of the sanitorium.'

"Now, by that, do you think you told the membership you had collected the $422,984.50?

"Mr. MCHUGH. No, sir; the paper that was presented and the paper that was supposed to secure the money and make the cash available, and we were satisfied it would be, however, that sale held the title to the property until such time, until that money is paid, and they do say they are going to be able to raise it.

"Mr. JACOBS. The point I am getting at, I want to be fair with you, and I want to criticize with you the fact that this table shows, because you are my neighbor, but the fact remains that here is a report of the officers of this union sent out to the membership, and they tell the membership that: 'Our actions have resulted in the payment of every dollar in full invested in the International Playing Card & Label Co. represented in the collection of the balance of $422,984.50.'

"Now when you told the membership that, didn't you think the membership was entitled to believe that sum of money had been received?"

(Here is Secretary-Treasurer McHugh's answer:)

"Mr. MCHUGH. That is right, and we were satisfied that money would be paid before this was——

"Mr. MCLELLAN (chief counsel for I. P. P. and A. U. of N. A., interposing). Mr. Chairman may I refer you to page 18 of that report, sir. That is dealing with, specifically, this transaction.

"Mr. JACOBS. All right, I have page 18.

"Mr. MCHUGH. In the investment quoted there under paragraph 1 you see the investment of the International Playing Card & Label Co. amounted to $893,638.97. Under paragraph 1 the international union is to recover the sum you mentioned.

"Mr. JACOBS. Wait a minute on number 18.

"Mr. MCHUGH. That will be found under paragraph 2.

"Mr. JACOBS. Paragraph 2?

"Mr. MCHUGH. Yes, sir.

"Mr. JACOBS. The international union is recovering $893,638.97, as per statement on page 13."

SECRETARY-TREASURER M'HUGH EXPLAINS

"Mr. MCHUGH. I direct the chairman's attention to the fact that the report sets out on the appraisal of this company for the liquidation of this indebtedness and sets out the tendency of this company to offer all this, or pay a sum of money, and it is obvious by the statement the international union is recovering this sum of money.

"Mr. JACOBS. Where is the language? On page 13?

"Mr. MCHUGH. No, sir; I didn't make any further reference to the approach.

"Mr. JACOBS. Well, it is there, No. 2, marked reference to page 13. You just stated an item on page 13.

"Mr. MCHUGH. Yes, on page 13. That is an incorrect reference. That should be page 15. It shows the result of the audit.

"Mr. JACOBS. Oh, yes, I see. I think you are right. That is a typographical error.

"Mr. MCHUGH. Yes, sir.

"Mr. JACOBS. All right. That shows a balance unrecovered of $422,984.50. Now that is what the auditor reported.

"Mr. MCHUGH. That is right.

"Mr. JACOBS. Don't you think that anyone who would back this report, it would seem that you might have an auditor's report that showed that there was $422,000 due the international, and when you turn back over there to page 28 and read 'payment of every dollar in full invested in the International Playing Card & Label Co. in the collection of the balance of $422,984.50,' that they would assume from that statement that you had reported that you had collected that money? Don't you think so, Mr. McLellan? You are a lawyer.

"Mr. MCLELLAN. No, sir, I don't.

"Mr. JACOBS. You are a lawyer, Mr. McLellan, don't you think so?

"Mr. MCLELLAN. No, sir.

"Mr. JACOBS. Well, at any rate, the money is not in the coffers of the union now?

"Mr. MCLELLAN. No, sir.

"Mr. JACOBS. Then, whoever examines the report will have to judge for themselves whether this is a forthright report."

(In explanation of No. 1 under item "h" of the letter on pages 6 to 8 to President de la Rosa, we feel that since it was entirely international union money that was used to finance the International Playing Card & Label Co., this latter company is entirely the property of the union and since the hearing before the House Labor and Education Committee has developed the fact the union was the sole investor, our belief is further substantiated. The committee quotes from the transcript of this hearing—p. 241, line 22 through p. 242, line 13).

"Mr. JACOBS. So far as you know all of the money that went to finance this playing-card company came out of the union treasury?

"Mr. MCHUGH. I would say yes.

"Mr. JACOBS. Would you say so far as you know?

"Mr. MCHUGH. So far as I know.

"Mr. JACOBS. Do you have any reason to believe there was any money from any other source that went into the financing of the playing-card company?

"Mr. MCHUGH. I would not know.

"Mr. JACOBS. In determining whether or not it was a good risk or loan, whether it was a good risk, would it not have been pertinent for you to have found out whether there was other money going in it or whether or not yours was the sole investment?

"Did you make any investigation at all at that time?

"Mr. MCHUGH. No, sir."

Page 59, line 6, through line 12:

"Mr. JACOBS. Is there not any reason why, if the international union owned the playing-card company, could it not take it and sell it as an asset?

"Mr. GOOGE. If we owned it and had any claim in it, which we did not have——

"Mr. JACOBS. You think you do not have—I wish I was not in Congress, and they would hire me to recover it for them."

Page 56, line 11, through line 21.

"Mr. MORTON (a Republican member of the subcommittee of the House Committee on Labor and Education). There seems to be considerable doubt as to just who owned the projects for a time. After the hydroelectric company became broke it became clear to the delegates that it belonged to the union. The hydroelectric company was a white elephant, so it belonged to the union. The playing-card company started making money and upon Mr. Berry's death it was found that the playing-card company was a profitable company, and we find the stock owned by various associates, wife, and what not. I think that is rather significant, and I am trying to figure in my Kentucky way how I can get into a business like that."

(In explanation of item "c" in the committee's letter to President de la Rosa we quote from the transcript from the afore-mentioned hearings p. 85, line 10, through line 18, p. 87:)

"Have you any knowledge or any reason to believe that there is today anything wrong with the way your union is being run, and I am speaking from the standpoint of democracy in the union?

"Is your constitution so implemented that the men get their rights and the members get their rights as guaranteed to them in your constitution which I read last night?

"Mr. LESCURE. I would not say that they were.

"Mr. MORTON. You would not say that they were?

"Mr. LESCURE. I would not say that they were.

"Mr. MORTON. You would not say so?

"Mr. LESCURE. No, I think not.

"Mr. MORTON. That is a rather general statement. Can you show us any concrete evidence?

"Mr. LESCURE. We think there is need for revision. For instance, I can cite an instance that came out in regard to handling money last year and on page 66 of our by-laws, article XIV, entitled 'Disposal of Funds,' section 1:

" 'When the amount of money in the treasury comprised of funds equal $5,000, all said moneys in excess of $3,000 may be invested by the president and secretary-treasurer with the approval of the board of directors in the name of the International Printing Pressmen's and Assistants' Union in the United States and Canadian Government bonds or first mortgage bonds or other good investments wherever the interest upon the money

can be secured in excess of that offered by the banks.'

"Mr. MORTON. Now, Mr. Lescure, do you think that is a fair provision in the bylaws?

"To illustrate that——

"Just a moment, I am not arguing whether the bylaws are good or bad, but if you think so and the majority think so, can you change those bylaws?

"Mr. LESCURE. That I think is the procedure in regard to the bylaws that takes place within our international union.

"Mr. MORTON. So that in a democratic America here your membership are opposed to certain bylaws and they are now going to change that?

"Mr. LESCURE. We hope so. Would you allow me to complete my statement in regard to this?

"Mr. MORTON. Yes, sir.

"Mr. LESCURE. Now that definitely says that money cannot be used in excess of certain amounts unless it can draw interest greater than paid by the banks.

"Now there was taken over $5,000 of our money and loaned out to the International Playing Card & Label Co., and interest free, and then the Board of Directors turned around and say that we owe them $4,000 a year for the cost of an organizer, and computed on a retroactive basis of 22 years, would amount to $88,000.

"Now I cannot understand or by what reasoning anyone can say they can take $900,000 interest free and then charge us for that money over a period of 22 years at the rate of $4,000 a year for that money.

"If that money were invested for the union at a 2-percent basis, it would amount to $18,000 a year or over a period of 20 years would amount to $360,000.

"Mr. MORTON. In that case, of course, the Board or whoever was responsible for advancing that money violated the provisions, apparently, of your bylaws which you have just read."

Page 100, line 13, through page 102, line 19:

"Mr. WERDEL. Well, let us assume that we have a completely democratic system in the pressmen's union. Do you personally feel as the result of your investigation that if some of the activities of Mr. Berry were truthfully submitted to the total membership of the union that they would by a secret ballot condemn them?

"Mr. LESCURE. I do.

"Mr. WERDEL. Even though it were explained to them that certain organizational activities were accomplished which would have cost a little more than if they were accomplished differently?

"Mr. LESCURE. Yes, I think so.

"Mr. WERDEL. Well, I am happy to hear you say that. Now we have faced the situation insofar as the pressmen are concerned that they have made certain admissions and we have certain indebtedness in the past which probably will be controlling evidence in any claim that they have to certain properties now in the name of Mr. Berry or his estate, and at the same time, his estate is so confused by unusual business contacts that the Department of Internal Revenue can hardly do anything but take advantage of certain presumptions which make his estate insolvent, and it is a hopelessly confused mess because it was not done according to certain definite business principles.

"Mr. LESCURE. Well, as I understand the bylaws and the will of the late George L. Berry he interwove his personal affairs into the international. I don't only fear the insolvency of the funds as they stand now, but I fear if we ever get on our feet again, unless drastic changes are made, that we don't know but what these defunct companies don't come back if we start to building a new treasury and some might put a claim against us.

"I fear it from that angle.

"Mr. WERDEL. I don't blame you for those fears, but the fact we must face today in Congress in disputes on which there is a difference of opinion on each side is that the methods that were needed to organize during the belligerent life of Mr. Berry in behalf of your union have accomplished a result which presents a different situation today, and the strife between individual unions is such that every individual man can have the power that Mr. Berry had of pitting union against union. It is a disadvantage, certainly to the workingman, and I think we will agree that the union in the hands and under the control of one man is far more effective in any kind of fight than one operated entirely along democratic lines.

"Mr. LESCURE. Yes, sir.

"Mr. WERDEL. Not only is it of interest to your union, but is of interest to the public and all unions that we have some kind of definite set of rules under which the men who are individual members of the union can control their own decision and their own actions, as those men are also men who support our country.

"I am sure that nobody on the committee here is particularly interested in hearing all the gory details of what has happened in the pressmen's union, except that it is a background and gives us a knowledge of what will result and can result if another man accepts and uses the power as Mr. Berry did."

(In explanation of No. 3 under term "h" in the committee's letter to President de la Rosa, we wish to show that the convention of 1948 was deceived and misled into believing according to the officers' report on page 13 that the amount of President Berry's income tax to be paid was $2,587.25 and that amount was for the year of 1939. The report further states that President Berry offered a plea of innocence for 1940 and 1941 and that the Government accepted the plea and the charges were dismissed. But such was not the case. Under indictment No. 1 in the District Court of the United States for the Middle District of Tennessee, President Berry owed income tax of $2,773.06. Under the second count, he owed income tax in the amount of $7,519.61 and under the third count he owed income tax in the amount of $14,226.73.

As per statement from the Internal Revenue Department "The previous day, he had paid to the collector $26,930.47 in full payment of additional taxes, penalties, and interest for the 3 years covered by the indictment."

In th financial statement of September 1 to November 30, 1948, in the right-hand column next to the last item on page 9, it very clearly shows where the $26,960.47 was disbursed which was illegal and contrary to the resolution adopted at the 1948 convention. To further substantiate this misappropriation exposure, the committee quotes facts brought out in the hearing of the House Labor and Education Committee—page 50, line 20 through line 17 on page 51:

"Mr. JACOBS. Are you familiar with an item in the financial report of your union for September 1, 1948? September 1 to November 30, 1948, near the bottom of the page, cancellation of $25,000 note. That is on September 14 and reimbursement of $1,960.47, amount due, which note having been placed in escrow, and that approval by said convention having been given, the notice herewith cancels $26,960.47. That represents a note Mr. Berry gave the union for $25,000 at the time he paid his income tax?

"Mr. GOOGE. That is correct.

"Mr. JACOBS. And I assume he took $1,900 of his own money and added $25,000 and paid the sum of $26,000 or, twenty-six-thousand-and-some-odd dollars?

"Mr. GOOGE. That is my presumption, too, Mr. Chairman.

"Mr. JACOBS. I want to ask you, as vice president of the organization, do you think the union should have paid that?

"Mr. GOOGE. I do not only think they should not have paid it, but I think my colleagues will agree with me, and for that reason the board of directors held up obligation on our books of some $24,000 in order to protect the interests. We had no right to pay his personal income tax other than based on his actual legitimate per diem and expenses under the constitution and bylaws of the international union."

In spite of the admission of Vice President Googe and the expression of his opinion that his colleagues would not agree, the board of directors still has not taken any action against the secretary-treasurer for illegally disbursing this amount of money.

We are of the opinion that our international board of directors is illegally constituted for the reasons set forth hereinafter.

At the convention held in 1948 on the third day, September 1, the president brought to the attention of the convention the suggestion of an additional vice president to represent the specialty workers. Regardless of the procedure pursued at the convention in the appointment of the vice president, we wish to call attention to the constitution and bylaws, page 86, sections 4 and 5:

"SEC. 4. Amendments involving increased taxation or increase of death benefits shall be submitted to referendum: *Provided, however,* That in case of necessity the convention shall have the power and authority to determine temporarily any change in respect to increase or decrease in taxation, or in the amount of death benefits or of strike benefits.

"SEC. 5. The convention shall be the sole judge of whether or not such necessity exists, and its determination and declaration thereof shall be conclusive and final. A two-thirds vote of the delegates voting thereon shall be required to determine and declare the existence of such necessity. The convention shall, by majority vote of the delegates voting thereon, determine the date on which any such amendment adopted by it shall go into effect. Such amendments adopted by the convention shall, however, be submitted to referendum for the purpose of determining whether the same shall become permanent, or whether the same shall only be in force during the period between conventions."

Inasmuch as the salary and expenses of a vice president are reflected very definitely in the taxation and inasmuch as there was an increase of 40 cents per month in taxation and there was not a referendum held on either of the actions, it very clearly shows that the board is illegally constituted, because this vice president who was illegally placed in office voted on the member of the board to be elevated to the presidency and also on the person to fill the vacancy created by this elevation. Even if the board should maintain that the specialty workers vice president was elected by a referendum, it would still be illegal because the voting was confined strictly to specialty workers and that in itself is a violation of the law.

Do you, the membership, care to try to continue under the direction of an illegally constituted board of directors? Especially since instead of clarifying matters they increase the uncertainty in the minds of the members relative to the financial structure of the international union?

We wish to show further an opinion volunteered by the chairman of the subcommittee of the House Labor and Education Committee during the testimony of Brother France wherein he advised obtaining counsel to straighten out this muddle:

Page 590, line 16 through page 591, line 13:

"Mr. FRANCE. The bylaws forbid us to go to court without having exhausted all of our power within the union, to have this thing investigated and brought about.

"Mr. JACOBS. May I say to you at that point that I used to be considered, and may be again before too long, will be considered a lawyer. You will find upon examination

of the law of the land that that is applicable only to a limited extent. The rights that an organization has under the law of the land, such as its rights to property, and applying to this particular case, the property that might be found in the Berry estate, which is impressed with a constructive trust and thus belongs to the printing pressmen's union, does not require the exhaustion of remedies within the organization. I think that you will find that would be the law. But that is neither here nor there. That is up to you folks, to get the advice you rely upon from your own lawyers.

"But I think that any rights that you have under the law of the land, you can exercise without exhausting your remedy. Or if your remedy is too delayed, you may resort to the courts.

"Mr. McCLELLAN. You mean, if the remedy appears to be inadequate under all of the circumstances?

"Mr. JACOBS. If it is inadequate, and delay is one of the inadequacies. I think that is very well stated."

Page 596 line 23 through line 1 on page 597:

"Mr. FRANCE. We do not have an attorney sitting beside us to guide us, Mr. Chairman.

"Mr. JABOBS. I am not plugging for my profession, but if you want to get anywhere, you had better get one."

Your committee feels that we have presented the high lights of this investigation. We believe that we have shown the need of retaining counsel and realize it is beyond the scope of one local union to handle. We, therefore, desire the membership to give serious thought to permitting us to organize a national committee. The locals who have volunteered their support can be the basis of the temporary national committee to solicit the support of all locals to proceed to take the steps necessary to protect the interest of the membership in the matters involved.

Kindly submit any inquiries or communications to the chairman.

Sincerely and respectfully submitted.

ARCHIE FRANCE,
Chairman.
LEO L. LESCURE,
Committee Member,
LEWIS W. THOMAS, Sr.,
Committee Member.

Mr. MORSE. Mr. President, I understand that a special committee of local No. 1 of the International Printing Pressmen's and Assistants' Union of North America has demanded an independent investigation of the financial affairs of the international union as they are related to the late President George L. Berry.

The committee's decision was reached after reading a New York Herald Tribune News Service report in the Washington Post which summarized the 32-page Report of the Board of Directors and the Home Trustees of the International Printing Pressmen's and Assistants' Union of North America to the Membership.

When the committee did not receive copies of the report it requested the author of the story to loan the committee a copy which he had in his possession. After an inspection of the report the committee concluded:

(a) That the report did not answer serious charges made concerning the late President Berry's use of union funds. Neither did the report give a complete picture of what steps are being taken to protect the union in the future against such instances as the late Joseph C. Orr's indebtedness to the union in the sum of $69,623.22 and Mr. Berry's involvement to the extent, according to the report, of $61,069.28.

(b) The committee, I understand, is especially concerned that the board of directors of the international union, many of whom held office under the late President Berry, advanced no explanation concerning:

First. How the late Mr. Orr was able to withdraw funds of the international union during the period he was its secretary-treasurer without being challenged by the late President Berry, the auditors, or other members of the international's board of directors.

Second. Why the union's board of directors and the firm of auditors hired by the union were unable to determine for a period of 4 years the extent to which Mr. Berry became involved with union funds in the purchase of equipment for his personal farm. The report states on page 20 that "the attention of the board of directors and the home trustees was called to the communication dated May 17, 1944, from George L. Berry to the J. D. Cloud & Co. in which the late Mr. Berry requested that when such an audit had been completed and a final conclusion reached that he would liquidate or his estate shall be responsible for it on the occasion of my death." The committee is not clear on the date the board of directors was advised of the letter's existence or why it would require such a length of time to determine the amount Mr. Berry was indebted to the union.

Third. The committee would like to know whether those members of the board of directors, including the secretary-treasurer, had knowledge of the late Mr. Berry's farm equipment transactions and the late Mr. Orr's misuse of union funds. If so, the committee would like to know why more prompt action was not taken to recover the sums mentioned in the report.

Fourth. The committee also would like to know the extent to which the international union is involved in the payment of inheritance taxes, State and Federal, on any portion of the estate of the late Mr. Berry and whether the terms of the George L. Berry endowment relating to payment of $2,100 annually to Mrs. Berry are being carried out.

(c) The committee, I understand, would like to challenge the payment of $88,000 to the International Playing Card & Label Co., Inc., at $4,000 a year, for organizational expenses. The committee would like to point out that the company, a private organization headed by the late Mr. Berry, had the interest-free use of almost $900,000 of union funds. At the rate of 2 percent per annum the union could have collected $18,000 a year if such funds had been invested for the benefit of the international during the lengthy time the money was being used by the company.

(d) The committee also would like to determine whether the playing card company maintained its payments on life insurance in the amount of $150,000 on the life of the late Mr. Berry. In this connection the committee notes the union's board of directors and the home trustees failed to include item "e" of the president's report to the thirty-fourth convention.

Item "e" read as follows:

The International Playing Card & Label Co. is paying (thus relieving the International Printing Pressmen's and Assistants' Union of the payments) the premiums upon the $150,000 life insurance carried on the writer as the president of the International Printing Pressmen's and Assistants' Union and upon my death the $150,000 will be paid to the International Printing Pressmen's and Assistants' Union of North America. Meantime, as stated, the premiums are being met by the International Playing Card & Label Co. and, of course, when the $150,000 is paid it will be a part of the liquidation of the real estate now in the process of purchase.

I understand the committee is also concerned about the fact that on pages 13 and 14 of the report the item "e" was not included, although all other sections of the president's report to the thirty-fourth convention relating to the playing-card company were included. In this connection the committee would like to know whether the $150,000 insurance policy was paid to the union and if it is included in the $249,000 item the report shows as having been paid the union under the heading of "Property option payments and payments on note."

(e) The committee notes that on page 14 of the report, the directors show the union's account with the playing-card company during the period from 1929 through 1939. The committee understands the company was organized in 1926 and would like to know what union funds were expended between 1926 and 1929 and whether payment has been made by the company to the union for any such sums.

(f) The committee would like to have a detailed record of whether any officers or employees of the union, past or present, are beneficiaries under the will of the late Mr. Berry and, if any are, the committee would like to know the extent of their participation in the director's investigation into this matter.

(g) The committee also notes that the investigation did not go into the question of whether stock held by the late Mr. Berry actually was the property of the union. The committee notes that testimony during Mr. Berry's trial for tax evasion in 1948 in Federal court at Nashville revealed that stock purchased with union money was issued in the name of the late Mr. Berry.

(h) For all of the above-mentioned reasons, the committee of local 1 feels that out of fairness to the union's membership and officers an independent investigation should be launched to determine:

1. Whether the union has any hope of recovering interest or a share of the International Playing Card & Label Co.

2. Whether responsibility for the lax financial operations of the international in connection with the late Mr. Berry's farm account and the late Mr. Orr's withdrawals can be fixed.

3. Whether other charges not discussed in the report of the board of directors and home trustees should be investigated.

I agree, Mr. President, that local No. 1 is following a perfectly proper course of action in asking the international officers to take the steps to protect the financial interests of the rank and file which local No. 1 has suggested to the international officers, as I have just related.

From the reports of the officers of the international union to the thirty-fourth

convention of the International Printing Pressmen's and Assistants' Union of North America we can find some very interesting statements. This convention was held at the Pressmen's Home, Tenn., August 30 through September 4, 1948. I ask to have excerpts from the reports of the officers of that convention inserted at this point in my remarks.

There being no objection, the matters were ordered to be printed in the RECORD, as follows:

[From reports of officers to the thirty-fourth convention of the International Printing Pressmen's and Assistants' Union of North America (held at Pressmen's Home, Tenn., August 30 through September 4, 1948)]

On page 16 of the president's report by George Berry, under the subheading of "Favorable investments."

"It is not my purpose to refer in detail to our investments in Canadian and United States savings bonds. They will be reflected in the report of the secretary-treasurer along with reference to other investments which I wish to mention herein.

"Mention is made here because it is my desire that the delegates to the convention and the membership at large may know that we have as judiciously as possible, and I believe as advantageously as possible, handled our moneys, and I wish to make the following reference:

"1. Our cash reserve has been somewhat reduced. This has been offset by profitable expenditures in our new technical trade-school building. We have the value and our money has been economically invested.

"2. We are the major stockholder in the Citizens Union Bank of Rogersville, Tenn., with branch banks at Church Hill and Bulls Gap, Tenn. The writer is the chairman of the board of that bank and played some part in the consolidation of the two banks at Rogersville into what is now the Citizens Union Bank. Our organization for all practical purposes controls the bank. Based upon population, it is one of the 17 strongest banks in the United States. At the close of business December 31, 1947, the total resources of the Citizens Union Bank of Rogersville, including its branch banks, amounted to $10,319,098.35. From the stock we hold in the Citizens Union Bank of Rogersville we have consistently received 20-percent dividends.

"3. We own a substantial block of stock in the Planters Warehouses, Inc., of Rogersville, which handle approximately 9,000,000 pounds of tobacco annually. They are located in the center of the famous burley-tobacco area. We have received a dividend of 20 percent upon this stock.

"4. In the matter of the International Playing Card & Label Co., of Rogersville, Tenn., the records will indicate that the contracts between this corporation and the board of directors and the home trustees of the international union were confirmed by the last convention. All the moneys due the International Printing Pressmen's and Assistants' Union have been paid, and the corporation is now gradually purchasing the real estate and will continue to do this on the basis of agreements in existence as amended by the board of directors and home trustees from time to time. The principle in this relationship is dual in its character, to wit:

"(a) The International Playing Card & Label Co. has been a substantial contributor to our organization campaign in other plants producing similar products. Scores of plants have been organized as a result of the influence of this corporation.

"(b) It has not been the purpose, nor is it the purpose now, according to the terms of the agreement and amended agreements, approved by previous conventions, to draw interest upon the moneys advanced by the international union in this respect. The proposition is simply that the moneys advanced representing principal shall be fully paid to the international union and that all items paid, irrespective of their classification by and through payments, are to be regarded as the principal over-all as it related to the International Printing Pressmen's and Assistants' Union of North America.

"(c) The principal in various classifications has been paid covering the total amount due the International Printing Pressmen's and Assistants' Union except as it relates to the real estate which is now being purchased, and every dollar of that principal will be paid.

"(d) Upon the full payment of all the moneys due on real estate the International Printing Pressmen's and Assistants' Union of North America, through the Printing Pressmen's and Assistants' Union Home, will receive $1,000 per month in perpetuity, which money is to be allocated to the institutions at Pressmen's Home, Tenn.

"(e) The International Playing Card & Label Co. is paying (thus relieving the International Printing Pressmen's and Assistants' Union of the payments) the premiums upon the $150,000 life insurance carried on the writer as the president of the International Printing Pressmen's and Assistants' Union, and upon my death the $150,000 will be paid to the International Printing Pressmen's and Assistants' Union of North America. Meantime, as stated, the premiums are being met by the International Playing Card & Label Co., and, of course, when the $150,000 is paid it will be a part of the liquidation of the real estate now in the process of purchase.

"The foregoing itemizations are being made for the record, so there may be no misunderstanding. They are all in accordance with agreements made by the board of directors and home trustees of the union and ratified by convention action."

Mr. MORSE. Mr. President, it is not pleasant to raise on the floor of the Senate such serious allegations concerning the management of the financial affairs of an American union. I wish to reemphasize that I am satisfied, on the basis of my broad knowledge of the operations of American trade-unionism, that the situation which has developed within the pressmen's union over the years with respect to its financial affairs is not at all representative of the manner in which the financial affairs of American trade unions are managed.

When such a situation as this develops, and when the interests of the rank-and-file members have not been protected by the international officers of the union, then I say that it is important that attention be called to such mismanagement of funds, because unless cases such as this are corrected, then well-managed unions, unions in which most meticulous care is exercised in operating the finances of the unions are going to be subject to blanket criticism from the public that the financial affairs of unions generally are so mismanaged that they become rackets.

This charge that the finances of any American unions are so managed that the interests and rights of the members thereof are not adequately protected already is part of the propaganda of labor baiters and antilabor forces. As a friend of organized labor I am proud to say here tonight, Mr. President, that I am satisfied there is no basis in fact for 99 percent of the criticism of American trade-unions in respect to the management of their finances. But in order to protect that good record it is essential that the friends of organized labor, both in and out of the unions, take the type of position I have taken in connection with this pressmen's union, namely, let us find out what the facts are, and let us insist that if it is true, as I believe a prima facie case has already been shown to exist indicating that it is true, that the international officers of this union in the past have mismanaged the finances of this union, then let us take the steps necessary to see to it that such a wrong cannot be repeated, and let us insist that steps be taken to right the wrongs already committed against the rank-and-file members of this union to the extent they can be righted.

Let us make very clear to the international officers of the union that American public opinion will not sanction and support the type of discriminatory and disciplinary action which it apparently has under serious consideration with respect to Washington Local No. 1, because the members of Washington Local No. 1, have dared, in a spirit of good union citizenship, as well as good American citizenship, to challenge the policies followed by the international officers of this union in respect to righting wrongs which allegedly have been committed against the members of the pressmen's union.

Now, Mr. President, since this incident has arisen I have received a great many communications from rank-and-file members of the pressmen's union. It has been somewhat frightening and exceedingly disappointing and in no small degree alarming to note the uniform pattern in these communications where a member of the union dared to sign his name—a pattern of the use of language in which the writer urged me not to forget that he was writing in the strictest of confidence and that if the international officers were aware of the criticisms of their policies which the writer had set down in his letter, the writer feared that serious disciplinary action would be taken against him.

I have received enough such communications to know that a great many men within that union are satisfied that a house cleaning is needed in respect to the business affairs of the union, and they are greatly indebted to Representative JACOBS and to the junior Senator from Oregon for discussing the problems of this union before appropriate committees of the Congress, and they are hopeful that as a result of the attention which we have focused upon this case such recommendations and advice as the Washington Local No. 1, has given for cleaning up the affairs of this union and making it a more democratic organization, will be followed.

I not only have received communications in which the writers have signed their names, but have written them under the strictest injunction of confidence, but I have received a good many communications to which no names were signed.

I now offer for the RECORD, Mr. President, one such communication which is very typical. It could be multiplied by others. I ask unanimous consent to have it printed at this point in my remarks.

There being no objection, the telegram referred to was ordered to be printed in the RECORD, as follows:

WASHINGTON, D. C., *May 19, 1949.*
Senator WAYNE L. MORSE,
Senate Office Building,
Washington, D. C.:

We wish to take this opportunity of thanking and commending you for your courageous action in bringing to the attention of the Senate Labor Committee the matter involving the finances of the International Printing Pressmen's and Assistants' Union of North America. We believe that the rank and file of the membership of our international union is most desirous of having an impartial group such as you have proposed make a thorough investigation of not only our financial status but also our undemocratic bylaws. Please be assured of our complete cooperation and support.

ARCHIE FRANCE, *Chairman,*
LEO L. LESCURE,
LEWIS W. THOMAS,
Committee Appointed by Local Union No. 1 for the Investigation of the Late George L. Berry's Will.

Mr. MORSE. Mr. President, I want to be perfectly fair to the international officers of this union because I think they have inherited, so to speak, an awful mess. They have a great opportunity of service they can perform not only for this particular union, but for trade-unionism in general by proceeding fearlessly and courageously to take whatever legal steps can be taken to salvage for the members of this union every dollar that can be salvaged legally out of the Berry estate, and then make a frank, factual report to the members as to just what did happen in respect to the management of the financial affairs of the union, what the international officers have done to correct it, and what they propose to recommend for adoption as safeguards that will forever protect the membership from a repetition of such gross mismanagement of the funds of the union.

In fairness to the international officers of the union I will say that I think they are acting in good faith when they reply to the charges that have been made against them that they do not think the situation is as bad as the allegations would seem to indicate. And so in fairness to them, Mr. President, I ask unanimous consent to have published at this point in my remarks a telegram which the general counsel for the union, Mr. McLellan, sent under date of May 19 to David McConnell, of the New York Herald Tribune, who was the correspondent who first raised newspaper questions concerning the financial affairs of this union.

There being no objection, the telegram was ordered to be printed in the RECORD, as follows:

PRESSMEN'S HOME, TENN., *May 19, 1949.*
DAVID MCCONNELL,
New York Herald Tribune,
Washington Bureau,
Washington, D. C.:

Here follows press release of President J. H. de la Rosa. Report to membership referred to in such release has previously been sent Washington members of local unions and undoubtedly you can get a copy from one of the officers of local unions. "President J. H. de la Rosa, of the International Printing Pressmen's and Assistants' Union of North America, commented today in reference to statements by a columnist appearing in the daily press on April 5 and 6, 1949, and to those of subsequent dates as well as to the statement to Senator WAYNE MORSE, of Oregon, that a Senate investigation committee should be appointed for the purpose of probing the financial transactions of George L. Berry, deceased president of the International Printing Pressmen's and Assistants' Union, with such international union, President de la Rosa said, 'Upon assuming the presidency of the international union I regarded it as a normal function of my office to cause to be made a complete audit of books, accounts, and records of the international union and this investigation was instituted in the month of December 1948. It has now been completed and a printed report covering the findings of this investigation was mailed on Tuesday, May 17, 1949, to each of the more than 75,000 members of this international union. These vicious and unwarranted attacks came during the course of this investigation and specific attention was directed by the two firms of auditors employed by my office to the transaction mentioned in the press. These items, along with other items, are dealt with fully in this report and reveal in the most striking manner inaccuracies contained in the statements of the columnist who has been known as an enemy of labor. He has caused to be printed false and incorrect misinformation for reasons best known to himself. For example, his charge that the union owned the International Playing Card & Label Co., and that when Mr. Berry willed this property to persons other than the union it stood to cost the union $1,000,000 is false and baseless as is clearly shown by this report. His reference to property owned by the union in Canada and which he charges Mr. Berry bought out of union funds and then sold back to the union is a further malicious and false accusation. The thought is inescapable, however, that the purpose of this attack is to weaken, if possible, the confidence of the membership of this international union in its officers, and thereby weaken the international union itself. It is the same old divide and conquer theory often used by other paid propaganda artists. As president of this international union, I have pledged myself to the membership to continue in effect those policies which have made possible the growth of this organization from one of insignificance to one of the largest printing trades-unions in the world. I reaffirm that pledge. As to the proposed investigation by the Senate committee, reportedly suggested by Senator MORSE, I can only say that an investigation by such Senate committee would be more than welcome. The records are clear, our books are open, we have nothing to fear or hide. I am certain that the confidence of our membership in the policies and principles for which the international union has stood and under which the membership has prospered will not be shaken by the untrue remarks of a columnist whose hypocritical expression of interest in the membership of this international union, or any other labor union, is more than humorous. The detailed report of the board of directors and home trustees of the International Printing Pressmen's and Assistants' Union of North America follows, and you are urged to compare the facts in this report to the fiction written by the columnist.'"

JOHN S. MCLELLAN,
General Counsel, I. P. P. & A. U. of N. A.

Mr. MORSE. Mr. President, I also ask unanimous consent to have printed the particular newspaper story written by Mr. McConnell, and published in the Wednesday, May 18, 1949, issue of the New York Herald Tribune, which gave rise to the telegram which Mr. McLellan sent to Mr. McConnell.

There being no objection, the matter referred to was ordered to be printed in the RECORD, as follows:

BERRY'S USE OF PRESSMEN FUNDS IS FACING SENATE INVESTIGATION—MORSE CHARGES THAT LATE UNION CHIEF BUILT PERSONAL FORTUNE BY INVESTING WORKERS' DUES

(By David McConnell)

WASHINGTON, May 17.—The Senate Labor and Public Welfare Committee received today a motion for a thorough investigation of charges that the late George L. Berry manipulated funds of the International Printing Pressmen's Union, which he headed, to build for himself a large personal fortune.

Senator WAYNE MORSE, Republican, of Oregon, asked for appointment of an investigating subcommittee of three Members to go into all ramifications of the case.

While the primary purpose of the subcommittee would be to learn what became of the dues paid by the pressmen, the larger goal would be to determine whether new legislation is needed to protect all unions against mismanagement of trust and welfare funds.

Senator MORSE, emphasizing that he was proceeding from help-labor motives, told the committee it was his belief the 75,000 rank-and-file members of the pressmen's organization are entitled to protection against any future milking of the union's treasury such as may have occurred in the past.

He called for complete reforms to protect the rank and file and told the committee that the union's constitution is so tightly drawn that it prevents a local or a member from obtaining relief from injustices or stopping financial manipulations such as those attributed to Mr. Berry.

While he stressed that most unions are above criticism, Senator MORSE is reported to have told the committee that an investigation of Mr. Berry's use of pressmen's union money indicates that some strengthening Federal laws may be required to protect unions against misuse of their funds by officers.

Senator ELBERT D. THOMAS, Democrat, of Utah, the committee chairman, asked Senator MORSE to submit a memorandum on the matter for consideration at a later date by the group.

Senator MORSE began his request for an investigation by asserting that available records, information obtained from persons associated with the union, and court records left no doubt that Mr. Berry freely used union money to make investments highly profitable to himself.

During almost an hour of discussion this morning, Senator MORSE outlined to the committee allegations concerning the relationship between the union and Mr. Berry, who was virtually the czar of the organization from 1907 until his death in 1948, as follows:

1. That Mr. Berry used an estimated $700,000 in union funds without interest to found and build up the International Playing Card & Label Co., of Rogersville, Tenn. The company, which now does over $1,000,000 a year in business was kept afloat in its early days almost entirely by funds from the treasury of the pressmen's union. The financial transactions were negotiated by Mr. Berry as president of the union, and Mr. Berry as president of the playing-card company.

2. Mr. Berry was ordered by the Federal court in Knoxville, Tenn., to return $165,000 of union funds which he had misused, according to the judge, to develop a hydroelectric company in Tennessee. The union's board of directors, which Mr. Berry headed, voted to forgive the debt.

3. In at least one case the union's directors voted to reimburse Mr. Berry for a personal loan of $5,000 which he had made to the now defunct Nashville Times. Mr. Berry

lost all but $500 of the loan when the paper went into bankruptcy in 1939.

4. That on several occasions Mr. Berry made stock purchases, ostensibly for the union and playing-card company, with funds of both organizations, but the shares were issued in his name.

5. The union's directors approved payment by the union for Mr. Berry of $26,930.47 assessed him as back taxes for the period from 1939 through 1941 on income from both the union and playing-card company.

Many union members did not protest Mr. Berry's use of union funds because he had stated publicly that upon his death he planned to leave his estate to the pressmen's organization. The bulk of his property, including the valuable playing-card company and bank stock, was left to others than the union.

Since his death, officers of the international, many of whom served under Mr. Berry, have been conducting an investigation to attempt to determine the extent of the involvement between the estate and the union. Although the membership has been promised a detailed report, none has been forthcoming.

A man who ruled the international union with an iron hand, Mr. Berry was idolized by the membership. His actions were rarely questioned until after his death, when it developed that the union treasury had played such a large part in the multiple Berry transactions.

Aiding Mr. Berry in maintaining firm control was the union constitution, which provides that no members may discuss business of the organization except to other members in good standing. The member also promises not to seek relief in courts without first:

"Appealing to the officers, board of directors, and the convention of the International Printing Pressmen's and Assistants' Union of North America, as provided by the constitution and laws thereof."

Senator MORSE told the Senate Labor Committee that the union has held only two conventions since 1928—in 1940 and 1948. He said that a member or local union would be wary of lodging a complaint because of the length of time needed to press it through to the ultimate point of appeal, the convention.

Senator MORSE also told the committee that the president and board of directors have extensive authority to take over operation of a local union, revoke membership cards, and generally discipline offending locals or their members.

Mr. Berry laid the ground work in 1926 for his greatest single venture with union funds, when he organized the International Playing Card & Label Co. The concern specializes in printing labels for canned goods and tobacco products.

Mr. Berry himself reported to the 1940 convention of the union at Pressmen's Home, Tenn., that the money was used free of interest.

He said: "It has not been the purpose, now, according to the terms of the agreement and amended agreements, approved by previous conventions, to draw interest upon the moneys advanced by the international union in this respect."

More of the story developed in 1948 when Mr. Berry pleaded nolle contendere in Federal court at Nashville to an indictment charging him with fraudulently evading income-tax payments in 1939. He received a probated sentence of 1 year and 1 day plus a $10,000 fine.

In hearing a summary of the charges before passing sentence, Federal Judge Elmer D. Davies was told by Earl A. Anderson, an agent of the Bureau of Internal Revenue, that Mr. Berry claimed to have advanced hundreds of thousands of dollars to get the playing-card company started.

He told Judge Davies that the money was not available on the basis of internal-revenue checks on Mr. Berry's income, but said "money was available from the union and the union was pouring in huge sums to finance the purchase of the printing presses and things like that."

In discussing some of Mr. Berry's transactions, Mr. Anderson also testified that the former union head had claimed the playing-card company owed him $160,000 for money he had spent between 1926 and 1939. In 1939, Mr. Anderson said, Mr. Berry had the company give him a note for $72,567.22 as the unpaid balance on his alleged over-all personal advances.

Mr. Anderson said that Revenue Bureau figures showed that during the same period Mr. Berry received in income $75,062.24 with which he purchased "numerous farms, acquired bank stock, things like that, and lived."

The playing-card-company case was one of several companies cited by Senator MORSE to show the uncontrolled use of union funds by Mr. Berry. He told the committee there are reports the Berry estate was so entangled with union affairs that after Mr. Berry's death the organization's headquarters at Pressmen's Home, Tenn., found several of their trucks and cars registered in Mr. Berry's name.

Mr. MORSE. Mr. President, I also ask unanimous consent to have published at this point in my remarks a statement which might be called a statement of defense or explanation, which Mr. de la Rosa, president of the pressmen's union, sent to the Committee on Labor and Public Welfare in explanation of the international officers' position in relation to the allegations which I presented to the Senate Committee on Labor and Public Welfare, based upon the McConnell story at the time that I suggested that we ought to consider the advisability of appointing a subcommittee to look into the financial affairs of the union. I think it is only fair that the union's defense, as prepared by Mr. de la Rosa, president of the union, be printed as a part of this speech. I am perfectly willing to let the defense submitted by Mr. de la Rosa speak for itself. In my opinion as a lawyer I think it is pretty much what we lawyers call a plea of confession and avoidance.

There being no objection, the memorandum was ordered to be printed in the RECORD, as follows:

MEMORANDUM FOR SENATE LABOR AND PUBLIC WELFARE COMMITTEE, FILED BY INTERNATIONAL PRINTING PRESSMEN'S AND ASSISTANTS' UNION OF NORTH AMERICA

This memorandum is submitted in order to clarify and make known the facts respecting certain charges heretofore made by radio commentators and newspaper columnists dealing with the manner in which George L. Berry, deceased president of the International Printing Pressmen, administered union funds during his 40-year term of office.

Many of the allegations previously made have been answered in detail in a 32-page printed report which has been distributed to the more than 75,000 members of this international union.

Subsequent to the issuance of the foregoing report, additional charges requiring an explanation have appeared in the New York Herald Tribune under a Washington, May 17, date line. In this same article it is reported that this committee, on the motion of Senator WAYNE MORSE, is considering interesting itself in the financial dealings of the late Mr. Berry with the union to the extent of considering an investigation by this committee of such transactions. Charges appearing in this article, a copy of which is appended to this memorandum, will be answered seriatim insofar as such charges are specific and capable of being answered.

1. The union's constitution: It has been charged that the constitution of the union is so written as to prevent a member from obtaining relief from any character of action by its officers although the officers may act in a high and an arbitrary manner and to the detriment of the general membership. This charge is simply unsupported by fact. The union's constitution is open to amendment by majority vote of the delegates voting thereon at any convention of the international union. Article XXV, section I, page 85, constitution and laws. Conventions are held quadrennially. Many amendments were introduced at the last convention of the international union and approved by the convention, resulting in new or revised laws. Between conventions any local union has the right to file with the board of directors any proposition, including proposed amendments to the constitution and laws, after having obtained the endorsement of 5 percent of the chartered local unions in 15 States or Provinces. After such condition precedent has been met, the board of directors is required to submit such proposition for a referendum vote to the general membership. Article XX, section 1. The general members of the union are well protected against abuses by officers during their 4-year term of office by those provisions of the constitution which permit the recall of the elected officers upon a proper petition endorsed by 100 local unions from 25 State or Provinces. This remedy is, of course, in addition to the regularly held elections which occur every 4 years. While it is true that the union's law prevents recourse by a member to courts of law or equity in respect to a grievance arising within the framework of the union until the member's remedies under the union's constitution and law have been exhausted, this provision is not only reasonable but is in accord with the decisional law in a number of States which require persons affiliated with associations such as labor unions to exhaust their administrative remedies prior to recourse to the courts, and is a standard provision contained in the constitution and laws of practically all national and international unions.

The officers of our international union are not elected at conventions; they are elected by referendum vote of the membership every 4 years, for a 4-year term. Candidates are nominated by referendum vote at the meetings of unions in December. A candidate, to receive the nomination for president and secretary, must in the primary nomination referendum receive the endorsement of a majority of the members of 10 percent of the chartered subordinate unions in good standing from 15 different States and Provinces—that is, 10 percent of the unions in 25 percent of the States and Provinces. The requirement for nomination of the office of vice president is 5 percent of the majority attending the union meeting in 25 percent of the States and Provinces.

A candidate for office has 46 months to campaign to receive this minimum support in the nominations referendum. Those nominated have an additional 2 months to campaign for the referendum election the following February. Our election laws are based on the principles involved in the United States Government's Federal Constitution and the system of representation in the United States Senate itself. We are sure, if and when the Congress of the United States and the several States change the system of representation and election in our Federal Government structure, the pressmen's union will continue to conform to the successful precedent established by our Federal Government itself.

A copy of the union's constitution and laws is appended to this memorandum for the information of the members of the committee.

2. The International Playing Card & Label Co.: The charge is made that Mr. Berry used $700,000 in union funds without interest to found and build the International Playing Card & Label Co. The framework of this corporation in its most minute detail is set out fully in the report to the membership referred to previously, which report is attached to this memorandum. Very briefly, the facts relative to the union's investment in the International Playing Card & Label Co. may be summarized as follows:

(a) The corporation was formed as a union enterprise for the purpose of assisting the union to organize competitive non-union-label printing concerns.

(b) The corporation was always a distinct and separate entity from the union because the union could not officially interest itself in the label-printing business.

(c) To assist the company to accomplish its purpose, the union invested in the company the sum of $893,000 in the period 1926–39. The company has and will repay the union the sum of $893,000 in the period 1939–49.

(d) The union has now organized 80 percent of the label-printing industry as contrasted with practically no organized label-printing concerns when the company was started.

(e) The company pays to the union $1,000 per month for charitable purposes, which payments are to continue for a term of 99 years, beginning in 1950.

From the standpoint of organizational activity and expense incident thereto it doesn't take much investigation to see that the investment was an excellent one from the union's point of view. The purpose of the company, namely, the organization of the non-union-label printing concerns, was accomplished; the union is recovering every cent of its capital investment; and in addition, the company is paying the union $12,000 per year, such payments covering a span of 99 years.

3. Reference is made to a lawsuit in which the then board of directors of the union, including the late Mr. Berry, were involved in 1921. The charge is made that Mr. Berry was ordered by the district court to return $165,000 of union funds which he had allegedly misused. The suit was brought by a dissident group of local unions on the theory that the union's board of directors, not Mr. Berry personally, had no right to use union funds for constructing a hydroelectric company which was to furnish power for the operation of the institutions at Pressmen's Home. The district court held with the faction of local unions, but the judgment of the court was forgiven not by the board of directors, as charged, but rather by the delegates to the 1922 convention of the international union, they representing all of the members of the international union whose money was involved. It goes without saying that since the money belonged to the members, it was theirs to do with as they saw fit.

4. The Nashville Times: Reference is made to the investment by Mr. Berry in the Nashville Times, a defunct newspaper located in Nashville, Tenn. This newspaper employed members of the union. Mr. Berry has left records indicating that he made the investment in order to continue the paper in operation, thereby providing employment for members of the international union. He did not make the investment personally, but rather as the nominee or agent of the international union and, therefore, it was perfectly proper for the union rather than Mr. Berry to stand the loss when the paper went into bankruptcy, for it was the union—not Mr. Berry—who stood to profit by the investment.

5. The blanket charges made that Mr. Berry made stock purchases ostensibly for the union with its funds but had shares of stock issued in his name. We are not apprized of what stock purchases are involved in these charges and, therefore, are unable to make any specific answer.

6. The period between conventions of the international union: Senator MORSE has represented to the committee that this international union has held only two conventions since 1928, to wit, 1940 and 1948. The facts contained in this charge are true—the inferences are not. The 1928 convention of the international union discussed the advisability of having conventions quadrennially instead of biennially because of the fact that officers were elected by a referendum vote every 4 years. Conventions of the international union cost the international in excess of $250,000. All expenses are borne by the international, including traveling expenses of the delegates from the 48 States and the Canadian Provinces. These factors persuaded the 1928 convention to amend the law to require conventions every 4 years. Accordingly a convention was due to be held in 1932. In this year the Nation was in the throes of the worst depression it has ever experienced. The cost of holding a convention with many of the members out of work was prohibitive. Nevertheless, the matter was submitted to a vote of the membership, and the members voted overwhelmingly against having a convention. In 1936 the same situation prevailed, but again the matter was submitted to a referendum vote, and the vote was overwhelmingly against holding a convention. In 1940 a convention was held. In 1944 the Nation was engaged in a war, and the transportation problems and Federal regulations resulting from the war made necessary the postponement of the convention. However, the matter was submitted to a vote of the membership, and the members voted against holding the convention themselves. In 1948 the convention was held. The inference that the officers of the union have arbitrarily refused to hold conventions is clearly without foundation.

7. The charge that the trucks and cars owned by the union are registered in Mr. Berry's name is simply untrue. This matter has been investigated, and all trucks and cars owned by the union are registered in the union's name.

8. The charge is made that the union's directors approved payment by the union for Mr. Berry of $26,930.47, assessed against him as back taxes for the period 1939–41. The then board of directors of the union, at a meeting held in Springfield, Ohio, in June 1942, adopted a resolution under which the board of directors elected to resist any attempt by the Bureau of Internal Revenue to classify as taxable income the constitutional expense allowance made for officers and representatives of the union, amounting at that time to $9 per day. This resolution was subsequently approved by the 1948 convention of the international union. The expenditure for the back taxes assessed against Mr. Berry was paid under authority of this resolution and the action of the 1948 convention. However, it appears that items other than the constitutional per diem were involved in this payment, and the board of directors of the international union have withheld payment of the sum of $24,830.77, owing by the international union to Mr. Berry at the time of his death, in accordance with the equity of any claim the international union may have against the estate of the late Mr. Berry (minutes, board of directors' meeting, April 26, 1949).

The officers of this international union, individually and personally, have welcomed an investigation by any representative group having authority to make such investigation.

Our organization has grown from a mere handful of pressroom artisans with no assets, to the largest and strongest international union of printing trades craftsmen and assistants throughout the world. We operate the largest technical trade school operated by a private agency, much less a trade-union, in the world; we operate a sanatorium for the infirm of our organization, and other humanitarian institutions. The collective-bargaining policy of this international union is based upon the principles of collective bargaining, conciliation, mediation, and arbitration. We have an international arbitration agreement with the American Newspaper Publishers' Association, covering the newspaper publishing industry. We likewise have an international arbitration agreement with the Printing Industry of America, Inc., union shop section, covering book, magazine, and commercial printing throughout this country. Because of these agreements and the inviolate policy of arbitration there have been practically no strikes in the commercial, book, and magazine printing industry, and only two strikes of short duration in the newspaper publishing field in many years. Our revenue from dues paid by the membership has been far below the average in our industry, notwithstanding the benefits available to the membership, in addition to our high standard of wages, hours, and working conditions procured for those employed under our jurisdiction without loss of employment and hence income occasioned by strike or lockouts.

J. H. DE LA ROSA, *President.*

Mr. MORSE. Mr. President, I am satisfied on the basis of the evidence which was brought out before the House subcommittee, on the basis of the report of the international officers themselves, that we are dealing here with a union which is in sorry need of a house cleaning so far as its financial practices are concerned, and a union which I think can also stand a great amount of democratizing of its procedure.

I close my speech by reiterating a point I made earlier, namely: I do not think that the policies and affairs of the pressmen's union, as brought out by the House investigation, are at all representative of the practices of unions affiliated with the American Federation of Labor or with any of the other great labor organizations of this country. Rather, I think we are dealing here with the exceptional and individual case of a union which has been victimized by some international officers who have not kept faith with the high traditions, ideals, and purposes of free trade-unionism in America. In order to preserve and protect the good name of American free trade-unionism, I say that it is essential that such abuses as I believe have existed in the management of the funds of the pressmen's union be corrected, and that it be made very clear to the American public that labor itself can be counted upon to defend the democratic rights and heritages of the rank-and-file members of American free trade-unions.

RECESS

Mr. DOUGLAS. Mr. President, in accordance with the order previously entered, I now move that the Senate take a recess until 12 o'clock noon tomorrow.

The motion was agreed to; and (at 9 o'clock and 21 minutes p. m.) the Senate took a recess, the recess being, under the order previously entered, until tomorrow, Wednesday, October 19, 1949, at 12 o'clock meridian.

NOMINATIONS

Executive nominations received by the Senate October 18 (legislative day of October 17), 1949:

FEDERAL TRADE COMMISSION

James M. Mead, of New York, to be a Federal Trade Commissioner for the unexpired term of 7 years from September 26, 1948.

FEDERAL POWER COMMISSION

Mon C. Wallgren, of Washington, to be a member of the Federal Power Commission for the remainder of the term expiring June 22, 1954.

CONFIRMATIONS

Executive nominations confirmed by the Senate October 18 (legislative day of October 17), 1949:

POST OFFICE DEPARTMENT

Vincent C. Burke to be Deputy Postmaster General. (New position authorized in sec. 2 of Reorganization Plan No. 3 of 1949.)

UNITED STATES COAST GUARD

TO BE LIEUTENANTS (JUNIOR GRADE)

Jason S. Kobler
David R. Permar

COAST AND GEODETIC SURVEY

Kenneth T. Adams to be Assistant Director of the Coast and Geodetic Survey.

POSTMASTERS

ARIZONA

Emil L. Turner, Jr., Chandler.

CALIFORNIA

Thomas B. Thomson, Azusa.
Hilda C. Briscoe, Balboa Island.
Walter C. Upton, Barstow.
Monte F. Inskeep, Buena Park.
Frances V. Butler, Clements.
Floyd W. Patterson, Coyote.
Thomas H. Ellis, Jr., Cutten.
Ruby E. Sportsman, Fellows.
Clarence L. Batten, Fortuna.
Cecil E. Bolt, Fowler.
John R. Daugherty, Hamilton City.
Ellen I. Fitzgerald, Happy Camp.
Nancy E. Jameson, Huron.
Earl W. Johnston, Ivanhoe.
Chester O. Jern, Kingsburg.
Mabel M. Brown, Lemoore.
Anselmo G. Escobar, Mecca.
Charles V. Schessler, Moffet Field.
George H. Gaskins, Oleum.
William L. Myers, Palm Desert.
John F. Fixa, San Francisco.
Hamil L. Arthurs, San Marcos.
Gilbert Cobarubia, Sloughhouse.
Lucille E. Palmer, Sonoma.
Edwin O. King, Sonora.
Albert J. Cesario, South Dos Palos.

CONNECTICUT

Joseph S. Kovaleski, Pequabuck.
Helen S. McElyea, Quaker Hill.
Peter P. McLaughlin, Jr., Wallingford.

FLORIDA

Edith M. Cox, Palmetto.
Samuel G. Harrison, Tampa.

GEORGIA

Andrew J. Kingery, Cochran.

ILLINOIS

Pearl Caswell, Ashland.
James C. Davidson, Orland Park.
Joseph J. Sawicki, Posen.
Amor A. Lauer, Sublette.

INDIANA

Donald L. Stanford, Brookston.
Raymond C. Mendenhall, Cambridge City.
John W. Woertz, Elizabeth.
John F. Huffer, Mulberry.

IOWA

Lawrence L. Hagie, Osceola.

KANSAS

Donald L. Zeigler, Hoisington.

KENTUCKY

James R. Trimble, Adairville.
Lois Abbott Morgan, Bedford.
Gladys S. Lindon, Blue Diamond.
H. Logan Webb, Guthrie.
Daniel Boone Logan, Pineville.

LOUISIANA

Carlos J. Turner, Dry Prong.
Lucie D. Wanersdorfer, Lettsworth.

MARYLAND

Lionell M. Lockhart, Capitol Heights.

MICHIGAN

Carl J. Mayer, Chelsea.
Beatrice C. Wright, Fairgrove.
Max C. Woodard, Lakeview.
George L. Stockwell, Pontiac.
Thomas J. Curiston, Waltz.
Vernon C. White, Wells.

MINNESOTA

Donald E. Nordby, Odin.

MISSISSIPPI

John M. Kendrick, Edwards.
Clarence C. Gill, McCall Creek.

MISSOURI

Helen L. Cross, Avondale.
Ross Leslie Tribble, Hallsville.
Alexander F. Sachs, Kansas City.
John E. Cole, Powersville.
Lester L. Lantz, Sheridan.
John Wilson Mitchell, Thayer.

NEBRASKA

Karla D. Timperley, Irvington.
Alice M. Olsen, Ruskin.

NEW JERSEY

Frank B. Harker, Lawrenceville.
Clarence R. Shover, Medford.
Irving R. Bogert, Pine Brook.
Edward Collins, Stelton.

NEW MEXICO

John Pershing Jolly, State College.

NEW YORK

Walter S. Amo, Clayton.
Lester A. Rockwell, Delanson.
Clarence G. Pilon, Faust.
Floyd A. Bernhardt, Kenoza Lake.
Donald S. Jackson, Skaneateles Falls.
William J. Alexander, Sonyea.
Daniel J. Costello, Troy.

NORTH CAROLINA

Wayne W. Parker, Atlantic.
Wade D. Brewer, Bennett.
Jesse J. Barbour, Benson.
William L. Whitley, Murfreesboro.

NORTH DAKOTA

Norman V. Simmons, Glenburn.
Christ J. Haman, Towner.

OHIO

Robert E. Flack, Bloomville.
Allen M. Rowe, Columbus.
Carlyle W. Coykendall, Newtown.
McClellen T. Fetty, Rayland.

OKLAHOMA

Bussie R. Corbus, Commerce.
Bennie Stephens, Lawton.

PENNSYLVANIA

John F. Nally, Carbondale.
Joseph F. Moran, Chinchilla.
William J. Stratford, Forest City.
Richard F. Albright, Kulpsville.
Raymond A. Thomas, Philadelphia.
Mildred E. Thomas, Shelocta.
James A. Reilly, Uniontown.

SOUTH CAROLINA

Cecelia W. Nixon, Cherry Grove Beach.
John A. Richardson, Cross Hill.
E. Calvin Clyde, Jr., Effingham.
James H. Lovelace, Glendale.
Thomas B. Raines, Landrum.
Mary L. Long, Pomaria.
Harry J. Gillespie, Seneca.
Rosa E. Bridgeman, Whitney.

SOUTH DAKOTA

Katherine H. Holtzman, Stephan.

TENNESSEE

Charles K. McDowell, Friendsville.

TEXAS

James L. Inabnet, Evant.

WEST VIRGINIA

Anna R. Ruiz, Dehue.
Guido Cavallo, Galloway.
Paul E. Miller, Jr., Kearneysville.
Herbert B. Dews, Oak Hill.
Robert F. Wildey, Tams.
Hazel I. Jackson, Wharton.
Charles A. Wilson, Widen.
Florence M. Raines, Winding Gulf.

WYOMING

Alma Lukas, Kortes Dam.

HOUSE OF REPRESENTATIVES

TUESDAY, OCTOBER 18, 1949

The House met at 12 o'clock noon.

Rev. John F. Hurley, S. J., Catholic Welfare Organization, Manila, Philippine Islands, offered the following prayer:

We pray Thee, O God of might, wisdom, and justice, by whose authority laws are enacted, assist with Thy holy spirit of counsel and fortitude these chosen Representatives of the people of our beloved country.

Let the light of Thy divine wisdom direct the deliberations of this Eighty-first Congress.

May all the laws framed for our rule and government by these good Congressmen preserve tranquillity of order, promote our national happiness, and perpetuate for generations of unborn Americans the blessing of equal liberty. Amen.

The Journal of the proceedings of yesterday was read and approved.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. McDaniel, its enrolling clerk, announced that the Senate had passed without amendment bills and joint resolutions of the House of the following titles:

H. R. 212. An act to extend to the Territory of Alaska the benefits of certain acts of Congress, and for other purposes;

H. R. 1370. An act to authorize the appointment of three additional judges of the municipal court for the District of Columbia and to prescribe the qualifications of appointees to the municipal court and the municipal court of appeals, and for other purposes;

H. R. 2186. An act providing for a location survey for a railroad connecting the existing railroad system serving the United States and Canada and terminating at Prince George, British Columbia, Canada, with the railroad system serving Alaska and terminating at Fairbanks, Alaska;

H. R. 2369. An act to authorize an appropriation to complete the International Peace Garden, North Dakota;

H. R. 3155. An act to amend Public Law 885, Eightieth Congress, chapter 813, second session;

H. R. 3300. An act for the relief of Mary Thomas Schiek;